

**OPERATIONALIZING AND ASSESSING REFLECTIVE EXERCISES IN LEGAL  
EDUCATION: TOWARDS A PEDAGOGY OF REFLECTIVE PRACTICE**

A Thesis Submitted to the College of  
Graduate and Postdoctoral Studies  
In Partial Fulfillment of the Requirements  
For the Degree of Master of Laws  
In the College of Law  
University of Saskatchewan  
Saskatoon

By

**BREA TENEAL LOWENBERGER**

## PERMISSION TO USE

In presenting this thesis in partial fulfillment of the requirements for a Postgraduate degree from the University of Saskatchewan, I agree that the Libraries of this University may make it freely available for inspection. I further agree that permission for copying of this thesis in any manner, in whole or in part, for scholarly purposes may be granted by the professor or professors who supervised my thesis work or, in their absence, by the Head of the Department or the Dean of the College in which my thesis work was done. It is understood that any copying or publication or use of this thesis or parts thereof for financial gain shall not be allowed without my written permission. It is also understood that due recognition shall be given to me and to the University of Saskatchewan in any scholarly use which may be made of any material in my thesis.

Requests for permission to copy or to make other uses of materials in this thesis/dissertation in whole or part should be addressed to:

Dean of the College of Law  
University of Saskatchewan  
15 Campus Drive  
Saskatoon, SK S7N 5A6  
Canada

OR

Dean of the College of Graduate and Postdoctoral Studies  
University of Saskatchewan  
116 Thorvaldson Building, 110 Science Place  
Saskatoon, Saskatchewan S7N 5C9  
Canada

## ABSTRACT

This thesis examines the understudied topic of operationalizing and assessing reflective practice in undergraduate legal education and the promise that this type of teaching and learning framework has to improve the legal profession and justice system in a myriad of ways. The purpose of the inquiry is to advance research on the topic and to take steps toward establishing a pedagogy of reflective practice in legal education. The research approach taken was thus pragmatic and utilization-focused as the findings are intended to be helpful and actionable for legal educators. In Chapter 1, I acknowledge the context of the current and longstanding debate on what the purpose of university-based legal education is. I draw from the literature to describe three predominant visions within the debate and explain how building a ‘reflective muscle’ starting in law school is necessary to achieve each of the visions, and as a result the promise of reflective judgment skills should be carefully considered by legal education stakeholders. I also summarize the history of reflective practice and assessment of it in legal education. Next, in Chapter 2, I introduce and analyze the overlap among three reflective practice models that are associated with legal education. While the focus is on three models that are associated with legal education, much could be learned from other models in future research. In Chapter 3, I describe and map onto a ‘Pedagogic Field’ the reflective practice exercises associated with each of the three models, to establish a ‘Working Operationalization’ of reflective practice in undergraduate legal education. Chapter 4 moves to the assessment topic, to highlight concerns and considerations that should be taken into account in evaluating reflective practice exercises. A ‘Working List of Considerations’ is developed based on related scholarship both within and outside of law. Finally, Chapter 5 focuses on the promise of using scoring rubrics to encourage deeper critical and creative reflection among law students, as opposed to surface level learning or strategic engagement. The results and the significance of this thesis are two-fold. First, a summary and analysis of the overlap among reflective practice models and exercises is undertaken, which establishes, as stated above, a synthesized Working Operationalization, using a Pedagogic Field. Second, the hope is that the Working List of Considerations for assessing reflective practice exercises summarized and analyzed from the literature will be a helpful contribution to the field.

## ACKNOWLEDGMENTS

I would like to thank my supervisor, Professor Michaela Keet, for her steadfast wisdom, encouragement, and time during every step of the Master of Laws program. I am also grateful to my Committee Members, Professors Sarah Buhler and Brent Cotter who provided valuable feedback during the program and have always encouraged my interest and writing on the topic of legal education.

I would also like to thank Professor Heather Heavin for her support and dedication as Associate Dean Graduate Studies at the College of Law in leading the graduate program.

Additionally, I would like to acknowledge the now dissolved Canada Millennium Scholarship Foundation, whose staff implemented a reflective scholarship renewal process. As a scholarship recipient from 2005-2009, the reflective scholarship renewal process sparked my interest and over those years solidified my certainty in the promise that rigorous, guided individual and collective reflective practice has (and, as I address in this thesis, could have) in improving and transforming complex international issues, such as those that face the justice system.

## **DEDICATION**

This thesis is dedicated to my mom, dad, and niece.

## TABLE OF CONTENTS

PERMISSION TO USE.....	i
ABSTRACT.....	ii
ACKNOWLEDGMENTS.....	iii
DEDICATION.....	iv
TABLE OF CONTENTS.....	v
LIST OF TABLES.....	ix
LIST OF FIGURES.....	x
<b>CHAPTER 1: The Context, History, and Promise of Operationalizing and Assessing Reflective Practice in Legal Education.....</b>	<b>1</b>
<b>1.1 Introduction: The Context.....</b>	<b>1</b>
1.1.1 The Context and Relevance of the Topic.....	1
1.1.2 My Relationship to the Topic: The Research Approach.....	7
1.1.3 Thesis Outline.....	8
<b>1.2 Summary of Historical Development of Reflective Practice.....</b>	<b>9</b>
1.2.1 Historical Development of Reflective Practice in General.....	9
1.2.2 Historical Development of Reflective Practice in Legal Education.....	11
1.2.3 Historical Development of Assessment of Reflective Practice in Legal Education.....	13
<b>1.3 The Promise of Student Development of Reflective Judgment as a Pathway to Improve the Legal Profession and Justice System.....</b>	<b>14</b>
1.3.1 Example 1: Student Development of a Reflective Practice as a Way to Foster Ethical Conduct.....	14
1.3.2 Example 2: Student Development of a Reflective Practice as a Way to Foster Intercultural Fluency Through Self and Other-Awareness.....	15
<b>CHAPTER 2: Introduction and Analysis of Three Reflective Practice Models Associated with Legal Education.....</b>	<b>19</b>
<b>2.1 Introduction of Three Reflective Practice Models.....</b>	<b>20</b>
2.1.1 Summary Description of Mary Ryan and Michael Ryan’s Teaching and Assessing Reflective Learning Model (TARL Model).....	20
2.1.2 Summary Description of Michele Leering’s Working Conceptualization of Reflective Practice.....	24
2.1.3 Summary Description of Timothy Casey’s Stages of Reflection.....	26
<b>2.2 Recommendations for Further Consideration and Research Among Three Reflective Practice Models.....</b>	<b>28</b>
2.2.1 Recommendations Regarding Ryan and Ryan’s TARL Model.....	29
2.2.2 Recommendations Regarding Leering’s Working Conceptualization.....	29
2.2.3 Recommendations Regarding Casey’s Stages of Reflection.....	30
<b>2.3 Analysis of the Overlap Among Three Reflective Practice Models.....</b>	<b>33</b>

2.3.1 Overlap Among Ryan and Ryan’s 4Rs Level 1 – Leering’s Reflection on Practice – Casey’s Stages 1 and 2.....	34
2.3.2 Overlap Among Ryan and Ryan’s 4Rs Level 2 – Leering’s Self-Reflection – Casey’s Stage 3.....	35
2.3.3 Overlap Among Ryan and Ryan’s 4Rs Level 3 – Leering’s Critical Reflection – Casey’s Stages 4 and 5.....	36
2.3.4 Overlap Among Ryan and Ryan’s 4Rs Level 4 – Leering’s Reflection on Practice, Integrated Reflection, and Praxis – Casey’s Stage 6.....	37
<b>CHAPTER 3: Synthesis of Three Models Towards a Working Operationalization of Reflective Practice In Legal Education.....</b>	<b>40</b>
<b>3.1 Summary and Mapping of Three Models’ Reflective Practice Exercises On The TARL Pedagogic Field.....</b>	<b>42</b>
3.1.1 Summary and Mapping of Teaching Patterns from Ryan and Ryan’s TARL Model.....	42
<i>Teaching Patterns Organized by Category-based Dimension of TARL Pedagogic Field (Vertical Axis).....</i>	<i>44</i>
Teaching Patterns for Level 1 – Reporting and Responding.....	44
Teaching Patterns for Level 2 – Relating.....	45
Teaching Patterns for Level 3 – Reasoning.....	47
Teaching Patterns for Level 4 – Reconstructing.....	48
<i>Teaching Patterns Organized by Development-based Dimension of TARL Pedagogic Field (Horizontal Axis).....</i>	<i>50</i>
3.1.2 Summary and Mapping of Reflective Methods from Leering’s Working Conceptualization .....	50
<i>Reflective Methods Using ‘Integrated Reflective Practice Framework’, Mapped on Category-based Dimension of TARL Pedagogic Field (Vertical Axis).....</i>	<i>51</i>
Methods for Reflection on Practice (Skills) – Corresponding with TARL Model Levels 1 and 4.....	51
Methods for Self-Reflection (Values) – Corresponding with TARL Model Level 2.....	52
Methods for Critical Reflection (Knowledge) – Corresponding with TARL Model Level 3.....	52
Methods for Integrative or Integrated Reflection – Corresponding with TARL Model Level 4.....	53
Methods for Praxis – Corresponding with TARL Model Level 4.....	53
<i>Reflective Methods Using ‘Learning Phases Framework’, Mapped on Development-based Dimension of TARL Pedagogic Field (Horizontal Axis).....</i>	<i>54</i>
Methods During Phase 1 (Year 1 of a Canadian law school program) – Corresponding with TARL Model Foundation Phase.....	54
Methods During Phase 2 (Experiential Education and Experiential Learning in a law school program) – Corresponding with TARL Model Experience Type Phase.....	55
Methods During Phase 3 (Years 2 and 3 of a Canadian law school program) – Corresponding with TARL Model Intermediate and Capstone Phases.....	55

Methods for Collective Reflection – Corresponding with TARL Model Reflective Focus Phase.....	56
3.1.3 Summary and Mapping of Reflective Assignments from Casey’s Stages of Reflection.....	57
<i>Reflective Assignments Mapped on Category-based Dimension (Vertical Axis) and Development-based Dimension (Horizontal Axis) of TARL Pedagogic Field.....</i>	57
Assignments During Stage 1 (Competence) and Stage 2 (Difference and Choice) – Corresponding with TARL Model Level 1 and Foundation/Simulated Phases.....	57
Assignments During Stage 3 (Internal Context) – Corresponding with TARL Model Level 2 and Experience Type Phase.....	58
Assignments During Stage 4 (External Context) and Stage 5 (Societal Context) – Corresponding with TARL Model Level 3 and Intermediate and Professional practice/Capstone Phases.....	59
Assignments During Stage 6 (Metacognition) – Corresponding with TARL Model Level 4 and Professional practice/Capstone Phase.....	60
<i>Reflective Assignments Mapped on Development-based Dimension (Horizontal Axis) of TARL Pedagogic Field.....</i>	60
<b>3.2 Recommendations for Further Consideration and Research Among Three Models’ Reflective Practice Exercises.....</b>	<b>61</b>
<b>3.3 A Plan Moving Forward: A Working Operationalization of Reflective Practice In Legal Education.....</b>	<b>64</b>
<b>CHAPTER 4: Principles, Concerns, and Considerations Associated with Assessing Reflective Practice in Legal Education.....</b>	<b>68</b>
<b>4.1 Summary of Key Principles of Assessment.....</b>	<b>68</b>
<b>4.2 Concerns Involving Students and Legal Educators in Assessing Reflective Practice Exercises.....</b>	<b>70</b>
4.2.1 Concerns Involving Students Completing and Being Assessed On Reflective Practice Exercises.....	71
4.2.2 Concerns Involving Legal Educators Designing and Completing the Assessment of Reflective Practice Exercises.....	72
<b>4.3 A Plan Moving Forward: A Working List of Considerations to Assess Reflective Practice In Legal Education.....</b>	<b>73</b>
4.3.1 What is temporally being assessed (reflection <i>for, in, or on</i> action)?.....	73
4.3.2 Why is the exercise being assessed (for the learning <i>process</i> or the learning <i>outcome/product</i> of the reflection)?.....	74
4.3.3 What teaching method and reflective practice exercise or combination of methods/exercises would best align with the learning objectives/outcomes and assessment (written, oral, or other)?.....	76
4.3.4 What rubric or marking scheme could be used, and what are the marking criterion (criterion versus normative versus incremental based)?.....	76
4.3.5 How frequent and when should reflective practice exercises be	



administered and assessed (formative and/or summative)?.....	78
4.3.6 Who is assessing the reflective practice exercise (collective, self-assessment, or peer-to-peer in addition to or in lieu of faculty assessment)?.....	80
<i>Group Feedback/Collective Assessment in Class</i> .....	81
<i>Self-Assessment (or Self-Scored Assessment)</i> .....	81
<i>Peer-to-Peer Assessment (or Peer-Scored Assessment)</i> .....	81
<i>Faculty Assessment</i> .....	82
<b>CHAPTER 5: The Promise of Scoring Rubrics to Create Alignment Between Operationalizing and Assessing Reflective Practice in Legal Education</b> .....	<b>84</b>
<b>5.1 Justification for Focusing On Scoring Rubrics</b> .....	<b>84</b>
<b>5.2 Application of Previous Chapters Through Three Examples</b> .....	<b>89</b>
5.2.1 Example 1: Assessing A Reflective Practice Exercise in a Large, Traditional Classroom.....	90
5.2.2 Example 2: Assessing A Reflective Practice Exercise Associated with a Negotiation Simulation/Skills Context.....	91
5.2.3 Example 3: Assessing A Reflective Practice Exercise Associated with a Clinical Legal Education Context.....	92
<b>CONCLUSION</b> .....	<b>95</b>
<b>APPENDICES</b> .....	<b>97</b>
<b>APPENDIX A: A Working Operationalization of Reflective Practice in Legal     Education and Map Key for Pedagogic Field</b> .....	<b>98</b>
<b>APPENDIX B: Sample Scoring Rubric</b> .....	<b>104</b>
<b>APPENDIX C: Copyright Permissions</b> .....	<b>105</b>
<b>BIBLIOGRAPHY</b> .....	<b>116</b>

## LIST OF TABLES

<b>2-1. Summary of Components of Three Reflective Practice Models.....</b>	<b>28</b>
<b>2-2. Summary of Proposed Overlap Among Components of Three Reflective Practice Models on Category-based Dimension of TARL Model (Vertical Axis).....</b>	<b>38</b>
<b>3-1. Sample Ideas For Graduate Attributes and Learning Objectives/Outcomes, Reflective Teaching Methods and Exercises, and Performance Indicators to Inform a Working Operationalization of Reflective Practice In Legal Education.....</b>	<b>65</b>

## LIST OF FIGURES

<b>2-1. Pedagogic Field of the TARL Model.....</b>	<b>21</b>
<b>2-2. TARL Model.....</b>	<b>23</b>
<b>2-3. Proposed Overlap Among Components of Three Reflective Practice Models on Category-based Dimension of TARL Model (Vertical Axis).....</b>	<b>34</b>
<b>3-1. Pedagogic Hub with Clickable Teaching Patterns Plotted on Pedagogic Field.....</b>	<b>43</b>
<b>A-1. A Working Operationalization of Reflective Practice in Legal Education and Map Key for Pedagogic Field.....</b>	<b>98</b>

**CHAPTER 1:**  
**The Context, History, and Promise of Operationalizing and Assessing**  
**Reflective Practice in Legal Education**

**1.1 Introduction: The Context**

Reflective practice is not an invitation to “woolly-headedness, a never-never land where anything goes”.<sup>1</sup> – Schön, on the importance of rigour in reflective practice

1.1.1 The Context and Relevance of the Topic

Reflective practice is an oft-cited buzzword in legal education and other disciplines’ graduate attributes and postsecondary education aspirational documents.<sup>2</sup> What is unclear is how this type of learning – developing reflective judgment and a practice – is being operationalized and assessed across law school curriculum and degree requirements.<sup>3</sup> The question of *why* the development of such thinking skills are necessary has recently become a topic of concern for some Canadian law schools and law societies, preceded by attention to it in other countries such as Australia,<sup>4</sup> and in other disciplines, such as medicine, health, and teaching.<sup>5</sup>

---

<sup>1</sup> Michele M Leering, “Integrated Reflective Practice: A Critical Imperative for Enhancing Legal Education and Professionalism” (2017) 95 Can B Rev 47 [forthcoming, on file with author] [Leering, “Integrated Reflective Practice”] at 28, citing Donald A Schön, *The Reflective Turn: Case Studies in and on Educational Practice* (New York: Teachers College Press, 1991) at 10.

<sup>2</sup> See e.g. Desired Juris Doctor Graduate Attributes (2010), online: University of Saskatchewan College of Law <law.usask.ca/documents/Graduate%20Attributes.pdf>; *A Learning Charter* (Saskatoon: University of Saskatchewan, 2010), online: University of Saskatchewan <usask.ca/learning\_charter> at 3. See e.g. GD Kuh, “Making learning meaningful: Engaging students in ways that matter to them” (2016) 145 *New Directions for Teaching and Learning* 49 at 55 regarding the important role of reflection in post-secondary education in general.

<sup>3</sup> Further research on operationalizing and assessing reflective practice in legal education has been recommended. See e.g. Michele Leering, “Encouraging Reflective Practice in a Professional School: Developing a Conceptual Model and Sharing Promising Practices to Support Law Student Reflection” (2012) [unpublished, on file with author] [Leering, “Encouraging Reflective Practice”] at 76 and 79.

<sup>4</sup> See e.g. Judith McNamara, Tina Cockburn, & Catherine Campbell, *Good Practice Guide (Bachelor of Laws): Reflective Practice* (San Francisco, CA: Creative Commons, 2013).

<sup>5</sup> See e.g. Michele Leering, “Enhancing the Capacity for Innovation in Legal Professionals: The Gift and Promise of Reflective Practice and Action Research for Fostering Access to Justice” (2016) Windsor YB Access Just [forthcoming, on file with author] [Leering, “Enhancing Capacity”] at 9-10; Timothy Casey, “Reflective Practice in Legal Education: The Stages of Reflection” (2014) 20 *Clinical L Rev* 317 at 322. See also University of Saskatchewan, Saskatchewan Institute of Applied Science and Technology, & First Nations University of Canada, *Nursing Education Program of Saskatchewan Student Handbook: 2016-2017*

With law school curriculum reform underway worldwide, including in new and existing Canadian law schools,<sup>6</sup> recognition of the benefits of reflective practice has gained some momentum in literature and practice as it relates to skills development and self-directed,<sup>7</sup> lifelong learning,<sup>8</sup> as well as from a social justice orientation in promoting transformational learning that can help graduating law students respond to calls to improve access to justice and social justice.<sup>9</sup> There is recognition that reflective judgment can enhance ‘practical skills’ training and scaffolding that leads to more ‘practice-ready’ graduates.<sup>10</sup> Other scholars transcend this ‘skills-based’ view to focus on how students’ development of reflective judgment can lead to transformational learning, which surpasses ‘surface’ learning, to ‘deeper’ learning and the development of ‘praxis’ – that is, reflection that leads to action and change.<sup>11</sup> Lawyers, legal scholars, and judges alike have self-identified that such critical and creative reflection and action is needed – a ‘cultural shift’ – in order to improve access to legal services and systemic barriers

---

(Saskatoon, SK: University of Saskatchewan, 2016), online:

<<http://www.usask.ca/nursing/neps/docs/NEPSHandbook2016-2017.pdf>> and Cherie Tsingos-Lucas et al, “The Effect of Reflective Activities on Reflective Thinking Ability in an Undergraduate Pharmacy Curriculum” (2016) 80:4 Am J Pharm Educ 65.

<sup>6</sup> See e.g. Integrated Practice Curriculum, online: Bora Laskin Faculty of Law <<https://www.lakeheadu.ca/academics/departments/law/curriculum/ipc>>; and Mary J Shariff et al, *Academic Innovation Committee on the Robson Hall JD Curriculum: Consultation Paper* (March 2014), online:

<[law.robsonhall.ca/images/stories/Academic\\_Innovation\\_Committee\\_Report\\_12\\_March\\_2014.pdf](http://law.robsonhall.ca/images/stories/Academic_Innovation_Committee_Report_12_March_2014.pdf)> [*Robson Hall JD Curriculum*]; The Calgary Curriculum, online: University of Calgary Faculty of Law <<http://law.ucalgary.ca/calgarycurriculum>>; and Winkler Institute for Dispute Resolution, *Justice Innovation and Access to Justice Program Report* (Toronto, 2016). Outside of Canada, see e.g. Australian Learning and Teaching Council, *Learning and Teaching Academic Standards Project: Bachelor of Laws Learning and teaching Academic Standards Statement* (December 2010), online:

<<http://www.cald.asn.au/assets/lists/Resources/KiftetalLTASStandardsStatement2010%20TLOs%20LLB.pdf>>.

<sup>7</sup> See e.g. F Anzalone, "Education for the Law: Reflective Education for the Law" (2010) *Handbook of Reflective Inquiry: Mapping a Way of Knowing for Professional Reflective Inquiry* 85 at 94.

<sup>8</sup> See e.g. Rachael M Field et al, *Lawyering and Positive Professional Identity* (Chatswood: LexisNexis, 2014) at 160.

<sup>9</sup> See generally Leering, “Integrated Reflective Practice”, *supra* note 1.

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid* at 80.

to justice.<sup>12</sup> Such a shift requires teaching and learning frameworks that transcend surface level learning, to deeper, critical, and creative domains of reflection and praxis. The development of reflective judgment equips students with a sustainable skill that could lead to recognizing and improving issues concerning access to legal services and social justice, and meeting the largely unpredictable futures that law graduates of the twenty-first century face.<sup>13</sup> Despite recent recognition of the benefits of reflective practice,<sup>14</sup> scholarship on the topic in legal education and the legal profession remains, with several exceptions, an understudied area in Canada.<sup>15</sup>

This examination of operationalizing and assessing reflective practice more meaningfully in legal education occurs in the context of a longstanding and currently heightened time of debate about the purpose of university-based legal education in Canada and elsewhere. The debate is situated in the still predominant approach to teach law school through the Socratic and casebook method that is based on Harvard Law School Dean Christopher Columbus Langdell's

---

<sup>12</sup> See generally the Canadian Bar Association Access to Justice Committee, *Reaching Equal Justice: An Invitation to Envision and Act* (Ottawa: November 2013) [CBA, *Reaching Equal Justice*] and Action Committee on Access to Justice in Civil and Family Matters, *Access to Civil and Family Justice: A Roadmap for Change* (Ottawa: October 2013). A self-identified call for a culture shift in the legal profession is accompanied by public recommendations. See e.g. Amanda Dodge, "Access to Justice Metrics Informed by the Voices of Marginalized Community Members: Themes, Definitions and Recommendations Arising from Community Consultations" (2013) Prepared for the Canadian Bar Association's Access to Justice Committee, online: <[http://www.cba.org/CBA/cle/PDF/JUST13\\_Paper\\_Dodge.pdf](http://www.cba.org/CBA/cle/PDF/JUST13_Paper_Dodge.pdf)>.

<sup>13</sup> See e.g. Michele Leering, "Conceptualizing Reflective Practice for Legal Professionals" (2014) 23 *JL & Soc Pol'y* 83 [Leering, "Conceptualizing Reflective Practice"] and Leering, "Integrated Reflective Practice", *supra* note 1 at 89.

<sup>14</sup> See e.g. *Educating the Whole Lawyer* (2017), online: Association for Canadian Clinical Legal Education <<http://accle.ca/wp-content/uploads/FINAL-CALT-ACCLE-Eng.pdf>>. Reflective practice was a key theme of the 2017 Canadian Association of Law Teachers and the Association for Canadian Clinical Legal Education conference.

<sup>15</sup> See Leering, "Enhancing Capacity" *supra* note 5 at 10-11. Leering notes several exceptions, including the work of Sarah Buhler, Sarah Marsden & Gemma Smyth, *Clinical Law: Practice, Theory and Social Justice Advocacy* (Toronto: Emond Montgomery, 2016) at 42-47; Julie Macfarlane, "A Feminist Perspective on Experience-Based Learning and Curriculum Change" (1994) 26:2 *Ottawa L Rev* 357; Julie MacFarlane, "Assessing the 'Reflective Practitioner': Pedagogic Principles and Certification Needs" (1998) 5:1 *Int'l J Legal Prof* 63; Julie Macfarlane, "Look Before You Leap: Knowledge and Learning in Legal Skills Education" (1992) 19:3 *JL & Soc'y* 293; Julie Macfarlane, "Mediating Ethically: The Limits of Codes of Conduct and the Potential of a Reflective Practice Model" (2002) 40:1 *Osgoode Hall LJ* 49; and Annie Rochette & W Wesley Pue, "'Back to Basics'?: University Legal Education and 21<sup>st</sup> Century Professionalism" (2001) 20 *Windsor YB Access Just* 167 at 188.

idea that ‘law is science’, and in an ethos of legal education writing that in part examines this approach and suggests ‘best practices’ and ‘what the best law teachers do’.<sup>16</sup> Integrating reflective practice more meaningfully into legal education challenges the Langdell-inspired science paradigm, in which reflective judgment has traditionally not been transparently taught or assessed.

The current predominant schools of thought that exist among Canadian legal education stakeholders, of what law school *should* be focused on include three visions, some of which adhere more closely with the Langdell-inspired science paradigm. Canadian legal educator Harry Arthurs summarizes the three visions as follows:

The first vision is that [law schools] should focus on producing "practice ready lawyers" to meet the immediate needs of today's legal profession. The second is that law schools should focus on training "tomorrow's lawyers," graduates who are able to adapt to a rapidly-changing world. The third insists that law schools are knowledge communities whose many functions include, but are not limited to, providing students with a large and liberal understanding of law that will prepare them for a variety of legal and non-legal careers and for participation as citizens in the broader economy and polity.<sup>17</sup>

While it is beyond the scope of this thesis to critically analyze the merits of the different visions of legal education, this thesis does invite legal education stakeholders (i.e. especially members of the legal academy and the profession) to engage in critical reflection about what teaching, learning, and assessment approaches and thinking skills university-based legal education should include, and is equipped to include. I argue that sophisticated approaches to operationalizing and assessing reflective practice is one necessary teaching and learning framework to realize and

---

<sup>16</sup> For commentary on the Langdell-inspired science paradigm, see e.g. Nancy Cook, “Law As Science: Revisiting Langdell’s Paradigm in the 21<sup>st</sup> Century” (2012) 88 NDL Rev 21 at 21. For writing on ‘best practices’ and ‘what the best law teachers do’, see generally Michael Hunter Schwartz, Gerald F Hess, & Sophie M Sparrow, *What the Best Law Teachers Do* (Cambridge: Harvard University Press, 2013); Roy Stuckey et al, *Best Practices for Legal Education: A Vision and A Road Map* (United States: Clinical Legal Education Association, 2007); and William M Sullivan, Anne Colby, Judith Welch Wegner et al, *Educating Lawyers: Preparation for the Profession of Law* (San Fransisco, CA: Josey-Bass, 2007); and Alli Gerkman & Logan Cornett, *Foundations for Practice: The Whole Lawyer and the Character Quotient* (Denver, CO: Institute for the Advancement of the American Legal System, 2016).

<sup>17</sup> Harry W Arthurs, “The Future of Legal Education: Three Visions and a Prediction” (2014) 51:4 Alta L Rev 705 at 705 [emphasis added].

improve each of the visions set out by Arthurs, and thus the existing and often conflicting visions of legal education are failing in meaningful ways.

The first vision, that law schools should attempt to produce practice ready lawyers and others' resistance to law schools devolving into 'trade schools' focusing on practical skills is not a new debate. For example, scholars such as Robert Condlin identify the current argument for practice ready lawyers as "the millennialist version of the argument for clinical legal education that dominated discussion in the law schools in the 1960s and 1970s".<sup>18</sup> The current heightened debate in the Canadian context has arisen as a result of intervention by the Federation of Law Societies of Canada (FLSC). The practice ready vision was endorsed in a 2009 report by the FLSC and adopted by its associated bodies in an attempt to influence Canadian law school curriculum.<sup>19</sup> Law schools were required to, starting in 2015, identify that its curriculum meets the "Law Societies legal competency requirements for Common Law degrees",<sup>20</sup> which requirements endorse more outcome-based learning.<sup>21</sup> The intervention and the approach of the intervention by the FLSC was largely met with resistance from the legal academy, some preferring the vision of law schools as 'knowledge communities'.<sup>22</sup> For example, Arthurs argues that the interest of the FLSC to have law schools produce practice-ready graduates seems to presume that "all lawyers must know the same things and possess the same competencies, a conclusion that totally ignores the effects of specialization and stratification - the two forces that most powerfully determine what lawyers need to know in order to practice competently".<sup>23</sup> Critics of the practice ready vision may be correct in that it is impossible for all lawyers to possess the same competencies; however, all lawyers *could* be exposed to ways to begin to develop reflective judgment starting in law school, which other disciplines have found to improve practice, for example, by enhancing lifelong learning skills and self-awareness about

---

<sup>18</sup> Robert J Condlin, "'Practice Ready Graduates': A Millennialist Fantasy" (2015) 31:1 Touro L Rev 75 at 1.

<sup>19</sup> Gemma Smyth, "Lulling Ourselves Into A False Sense of Competence: Learning Outcomes and Clinical Legal Education in Canada, the United States and Australia" (2012) Can Legal Educ Ann Rev 15 at 26.

<sup>20</sup> *Ibid.* Federation of Law Societies of Canada, "Task Force on the Canadian Common Law Degree: Final Report" (October 2009).

<sup>21</sup> Smyth, *supra* note 19 at 26.

<sup>22</sup> See generally Arthurs, *supra* note 17 at 706-708.

<sup>23</sup> *Ibid* at 708.



both one's area of specialization and gaps in knowledge, which is critical to efficient and ethical practice.<sup>24</sup>

The second and third visions, that law schools should be training “tomorrow’s lawyers” and are “knowledge communities”, also appear to fail by not meaningfully taking into account the promise of teaching and assessing reflective judgment, which could help to achieve both of these visions. It is unclear from a dearth of literature on the topic how law schools, as knowledge communities in a university-based setting determine at a programmatic level whether students are developing reflective judgment and lifelong learning skills. A lack of clarity on how the development of such thinking skills are being encouraged is concerning since, as stated above, critical reflection is an oft-quoted buzzword and identified as a graduate attribute in law school and postsecondary education aspirational documents. This is especially concerning since recent cognitive research suggests law students are not measuring up to their peers in other disciplines in the thinking skills that are necessary to develop a reflective practice. Troubling information from a recent study by Cheryl Preston, Penée Wood Stewart, and Louise Moulding supports the need for further research on how operationalizing and assessing reflective judgment in law school impacts law students’ cognitive development. The study found that law students have a lower aptitude in metacognitive thinking in relation to their peers in other professional fields.<sup>25</sup> Internal, conscious reflection is a prerequisite to the development of metacognitive skills, that is the ability to ‘think about one’s thinking and learning’, as Anthony Niedwiecki explains:

Metacognition can be described as the internal voice people hear when they are engaged in the learning process—the voice that will tell them what they have to do to accomplish a task, what they already know, what they do not know, how to match their previous learning to the new situation, when they do not understand what they are reading or learning, and how to evaluate their learning. It is this internal reflection and conscious control of the learning process that goes to the

---

<sup>24</sup> See e.g. McNamara, Cockburn & Campell, *supra* note 4 at 5.

<sup>25</sup> Cheryl B Preston, Penée Wood Stewart, & Louise R Moulding, “Teaching ‘Thinking Like a Lawyer’: Metacognition and Law Students” (2015) *BYUL Rev* 1053 at 1068. For more information about why and how law students performed lower than their peers from other professional fields, see “Possible Explanations for Low Law Student Performance” at 1069. See also Patti Alleva & Jennifer A Gundlach, “Learning Intentionally and the Metacognitive Task” (2016) *65:4 Journal of Legal Education* 710 at 722-725 on “the importance of metacognition to learning” in the legal education context.

heart of metacognition.<sup>26</sup>

The troubling results from this study raise questions regarding, for example, how the development of students' reflective judgment is supported in other disciplines and where operationalizing and assessing reflective judgment skills may be absent in law school curriculum. If law schools are to meet the vision of training "tomorrow's lawyers" or being a "knowledge community", how are graduate attributes and the objectives of university-based education, such as developing reflective judgment and lifelong learning skills being meaningfully and transparently integrated and assessed in programs? This thesis draws on literature by legal scholars from within Canada and other countries to establish that integrating and assessing reflective judgment is capable in doctrinal and experiential or clinical based courses, alike. The hope is therefore that Canadian law school curriculum committees and individual legal educators carefully and meaningfully consider integrating and assessing reflective judgment in all aspects of law school programs, and that all legal education stakeholders consider how the development of sophisticated reflective judgment is necessary to achieve and advance each of the visions.

#### 1.1.2 My Relationship to the Topic: The Research Approach

The objective of this thesis is to begin to identify structured, yet flexible and adaptable approaches to operationalize and assess reflective practice in legal education in order to help students develop their reflective muscle,<sup>27</sup> which topic lacks scholarship in Canada.<sup>28</sup> Pragmatic and utilization-focused criteria were used in completing this inquiry. The strength of this thesis and contribution to the field is that it is pragmatic in that the focus of the inquiry has a practical orientation, aims to inform decision-making and action, and is relevant to current interests of legal educators, so the findings are intended to be actionable and timely.<sup>29</sup> My writing is informed from my orientation having first studied reflection and cognitive development as a psychology student, followed by in a teaching and learning context as an

---

<sup>26</sup> Anthony Niedwiecki, "Teaching for Lifelong Learning: Improving the Metacognitive Skills of Law Students Through More Effective Formative Assessment Techniques" (2012) 40 *Capital UL Rev* 149 at 156-157.

<sup>27</sup> Leering, "Integrated Reflective Practice", *supra* note 1 at 16.

<sup>28</sup> Leering, "Encouraging Reflective Practice", *supra* note 3 at 76 and 79.

<sup>29</sup> M Q Patton, *Qualitative research & evaluation methods: integrating theory and practice* (Thousand Oaks, CA: SAGE Publications, Inc, 2015) at 695-697.

employee of a university learning centre; having practiced law as a student and a lawyer in several settings (poverty law in a community legal clinic, in criminal prosecutions, and in private practice); and now entering my fourth year as a legal educator and ongoing agent for social change and justice system reform as the director of CREATE Justice, an access to justice research centre and as a coordinator for access to justice initiatives in Saskatchewan.<sup>30</sup> A practical reflective framework was used to structure the thesis: simply, “What? So what? Now what?”<sup>31</sup> The sections that follow will explain how some legal scholars have written on the questions of “What” and “So what?”. My work moves to the “Now what?”, to start to identify how legal educators might operationalize and assess reflective practice in legal education. The key deliverable of the thesis to the field is thus a starting point – not an empirical study, nor a full, traditional theoretical review, but a practical approach which captures the emergence of this work, and will be relevant to systems thinkers and the primary intended users – legal educators and the legal profession. A related objective of this thesis, as stated above, is that it itself prompts critical and creative reflection and collaboration among legal educators that will lead to praxis (again, that is reflection that results in action and change) – specifically, further integration and assessment of reflective practice exercises in legal education, and related scholarship.

### 1.1.3 Thesis Outline

Chapter 1 addresses the questions of “What?” and “So what?”. Section 1.2 summarizes the general history and definition of the concept of reflective practice and its history as it relates to legal education. Section 1.3 identifies that while the scope, value, and goals of reflective practice are vast, particular attention should be paid to how this type of teaching and learning can support important goals such as students’ development of ethical conduct and intercultural fluency, in addition to the above-mentioned development of practical skills and an access to justice consciousness. It further sets the stage for subsequent Chapters by identifying that assessment of reflective practice is understudied in legal education literature. Chapters 2, 3, 4, and 5 move into

---

<sup>30</sup> See Brea Lowenberger, Michaela Keet & Janelle Anderson, “Collaborative Policy-Making, Law Students, and Access to Justice: The Rewards of Destabilizing Institutional Patterns” (2017) Windsor YB Access Just (forthcoming) for information on how an access to justice coordinator position was established in Saskatchewan – that is, an example of collective reflection that resulted in action among justice stakeholders.

<sup>31</sup> G Rolfe, D Freshwater & M Jasper, M, *Critical reflection in nursing and the helping professions: a user’s guide*. (Basingstoke: Palgrave Macmillan, 2001).

the question of “Now what?”. Chapter 2 introduces the definition of reflective practice, as is set out by three different reflective practice models that have been used in legal education and describes the overlap and potential for future research among these three models. The thesis does not attempt to review the three models in relation to the many other reflective practice models that exist outside of legal education, but rather takes a pragmatic and utilization-focused approach to point out both the benefits and areas for further consideration and research among these three. Chapter 3 outlines the reflective practice exercises associated with each model and synthesizes the three models onto a ‘Pedagogic Field’, to establish a Working Operationalization of reflective practice across law school curriculum. Chapter 4 shifts to the assessment topic to identify some concerns as well as ‘best practices’ of assessing reflective practice, culminating in a Working List of Considerations. The thesis concludes with Chapter 5, wherein the use of scoring rubrics is focused on and several examples are outlined to illustrate the viability of weaving reflective practice exercises into doctrinal and experiential-based courses.

## **1.2 Summary of Historical Development of Reflective Practice**

### 1.2.1 Historical Development of Reflective Practice in General

Reflective practice has been defined and conceptualized across a number of professional disciplines, and more recently, in legal education. The term ‘reflective practice’ was first developed in 1983 by philosopher Donald Schön. Schön stated that professional competence involves “thinking and doing” through which one “becomes more skillful”.<sup>32</sup> Yet, the concept of reflection predates Schön. Indeed, the concept of reflection in learning dates back to Aristotle and his “discussions of practical judgment and moral action in his *Ethics*”.<sup>33</sup> More recently, John Dewey’s conceptualization of ‘reflective activity’ in learning has been influential, in which he asserts that reflective activity leads to enhanced problem-solving and learning.<sup>34</sup> Specifically, Dewey identified two experiential processes which led to learning: (i) the process of trial and

---

<sup>32</sup> DA Schön, “Educating the Reflective Practitioner” (San Francisco, CA: Jossey-Bass, 1987) at 31. See also Donald A Schön, “Educating the Reflective Legal Practitioner” (1996) 2 *Clinical L Rev* 231.

<sup>33</sup> David Boud, Rosemary Keogh & David Walker, eds, *Reflection: Turning Reflection into Learning* (New York, NY: Routledge Falmer, 1987) at 11.

<sup>34</sup> *Ibid.*

error which “led to ‘rule of thumb’ decisions”; and (ii) reflective activity which involved “the perception of relationships, and connections between the parts of an experience”.<sup>35</sup>

Schön, with his conceptualization extending beyond ‘reflection’, to ‘reflective practice’, was concerned that most professional education programs adopted a narrow focus on technical-rational knowledge. Schön argued for incorporation of reflective practice in professional education as “an alternative to the traditional epistemology of practice”.<sup>36</sup> In educating the reflective legal practitioner, Schön stated the purpose is that students have the opportunity to bridge the gap between theory and practice to combine reflection in and on action, through a “reflective practicum” that “more directly assists students to seek self-learning and to find it”.<sup>37</sup> The literature has recently progressed from addressing the value of teaching reflective judgment in legal education, the “What?” and “So What?”, as discussed in this Chapter, to starting to study models and exercises for teaching and encouraging reflective practice skills, the “Now What”, as is discussed in Chapters 2 and 3 of this thesis.<sup>38</sup>

This section will briefly describe the abundance of reflective practice models that have developed across disciplines since Schön’s seminal writing in the late twentieth century.<sup>39</sup> Michele Leering, a Canadian writer on reflective practice in legal education, provides a helpful overview of the general historical development of reflective practice in a recent article.<sup>40</sup> She cites the contributions of a number of theorists for “enrich[ing] the concept of reflective practice by adding new dimensions and complexity”.<sup>41</sup> These theorists include David Boud, Rosemary Keogh, and David Walker’s work on the affective aspect and the “role of emotions in learning”;<sup>42</sup> Stephen Brookfield, Jack Mezirow and Paulo Freire’s work on critical and transformative reflection; Gillie Bolton’s work on the area of self-reflexivity;<sup>43</sup> David Boud,

---

<sup>35</sup> *Ibid.*

<sup>36</sup> DA Schön, *The Reflective Practitioner: How professionals think in action* (New York: Basic Books, 1983 [Schön, *The Reflective Practitioner*]; and Schön, “Educating the Reflective Legal Practitioner”, *supra* note 32 at 247 and 250.

<sup>37</sup> *Ibid.*, cited in Leering, “Enhancing Capacity”, *supra* note 5 at 9-10.

<sup>38</sup> See e.g. Casey, *supra* note 5.

<sup>39</sup> See e.g. Field et al, *supra* note 8 at 105.

<sup>40</sup> Leering, “Integrated Reflective Practice”, *supra* note 1 at 7-17.

<sup>41</sup> *Ibid.* at 11.

<sup>42</sup> *Ibid.*

<sup>43</sup> *Ibid.*

Peter Cressey, and Peter Docherty’s work on “productive reflection”;<sup>44</sup> and Michael Reynolds and Russ Vince’s work on the essential aspects of collective reflection.<sup>45</sup> Leering also highlights numerous theorists who contributed to developments of “levels of reflection” and “multiple methods and representations of reflective cycles”, stating:

Many respected learning theorists contributed to these developments including Kolb who advanced the experiential learning cycle; King & Kitchener who developed the reflective judgment model based on decades of empirical research; Boyd [and] Fales who theorized about reflective learning; Boud et al who hypothesized about learning from experience; Brookfield who emphasized critical reflection; Moon who wrote about reflection, experiential learning and professional development; Kinsella who theorized about “embodied reflection”, and Brockbank [and] McGill who advanced reflective learning in higher education, to name just a handful or two of influential theorists.<sup>46</sup>

Leering indicates that each of these theorists “stressed reflection’s crucial role in learning” and that “their theoretical and empirical scholarship has contributed to a richer conceptualization of reflective practice”.<sup>47</sup>

#### 1.2.2 Historical Development of Reflective Practice in Legal Education

However, as stated above, with several exceptions, there has been a lack of attention paid to reflective practice in legal education literature, until recent years.<sup>48</sup> Whereas most other professional disciplines and law schools in countries such as Australia have adopted a reflective practice framework, Canadian legal educators and the legal profession, as a whole, have not.<sup>49</sup> The incorporation of reflective practice in legal education is especially growing in countries outside of Canada. For example, reflective practice has recently become a core requirement for legal education in the United States where students engage in a “field placement course [that] provides substantial lawyering experience”.<sup>50</sup> In Australian law curricula, “reflective practice is a core skill embedded in the Teaching and Learning Outcome for promoting Australian students’

---

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*

<sup>46</sup> *Ibid* [footnotes omitted].

<sup>47</sup> *Ibid.*

<sup>48</sup> See e.g. Leering, “Enhancing Capacity”, *supra* note 5 at 18.

<sup>49</sup> See e.g. Leering, “Integrated Reflective Practice”, *supra* note 1 at 64.

<sup>50</sup> American Bar Association, *ABA Standards and Rules of Procedure for Approval of Law Schools 2016-2017* (United States of America: August 2016), online: <[http://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/Standards/2016\\_2017\\_aba\\_standards\\_and\\_rules\\_of\\_procedure.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2016_2017_aba_standards_and_rules_of_procedure.authcheckdam.pdf)> at 18.

self-management skills”.<sup>51</sup> Australian scholars suggest that reflective practice is a “core skill which can aid student learning in all domains”.<sup>52</sup>

There are historically, however, Canadian legal scholars who have advocated for the incorporation of reflective practice across legal education curricula. As Leering indicates, “[h]istorically MacFarlene, Pue, Rochette, and Buchanan have advocated for reflective practice”.<sup>53</sup> In the Canadian clinical legal education context, scholars such as Sarah Buhler, Sarah Marsden, and Gemma Smyth have recognized the benefits of reflective practice in clinical legal education.<sup>54</sup> In fact, Smyth has put together an entire toolkit on reflective practice and other skills for clinical legal education students.<sup>55</sup> Given the strong connection between reflective practice and experiential and work-integrated learning, it is not surprising that reflective practice has been written about and implemented by Canadian clinical law and dispute resolution scholars.

In recent years, greater attention to the development of reflective judgment and the promise it holds for law students and legal professionals has emerged in Canada. With respect to the Canadian landscape, Leering notes that “[t]here are at least two Canadian law schools that have explicitly endorsed reflective practice in the course of introducing curricular reforms and recently two provincial Law Societies are requiring a basic form of reflective practice (annual learning contracts) as a continuing professional development requirement”.<sup>56</sup> The growing recognition of the need for and benefits of reflective practice in the legal profession foreshadows Australian legal scholar Kelley Burton’s prediction, that “[i]ntegrating and assessing reflective

---

<sup>51</sup> Judith McNamara, Tina Cockburn, & Catherine Campbell, *supra* note 4 at 5.

<sup>52</sup> *Ibid* [footnotes omitted].

<sup>53</sup> Leering, “Integrated Reflective Practice”, *supra* note 1 at 13. See e.g. Annie Rochette, “Teaching and Learning in Canadian Legal Education: An Empirical Exploration” (Montreal, QC: Doctorate of Civil Law, McGill University, 2010) [unpublished], online: <[http://digitool.library.mcgill.ca/R/?func=dbin-jump-full&object\\_id=103488&local\\_base=GEN01-MCG02](http://digitool.library.mcgill.ca/R/?func=dbin-jump-full&object_id=103488&local_base=GEN01-MCG02)> at 32, in which Rochette states some benefits of reflective practice amid conducting a study on teaching and learning in Canadian legal education.

<sup>54</sup> See e.g. Buhler, Marsden & Smyth, *supra* note 15 at 42-47.

<sup>55</sup> Cliniclax.ca, online: Windsor Law, University of Windsor <<http://cliniclax.ca>>.

<sup>56</sup> Leering, “Enhancing Capacity”, *supra* note 5 at 9-10 and 14. See also General Information (2010), online: Law Society of Alberta <<http://www.lawsociety.ab.ca/lawyers/cpd/cpd-general-information>> and Nova Scotia Barristers’ Society, Assessing your CPD Plan (2014), online: <<http://nsbs.org/assessing-your-cpd-plan>> (25 June 2016).

practice will gain more momentum in legal education and may even supersede the traditional doctrinal ways of thinking as we travel further into the 21st century”.<sup>57</sup> To support the growing curiosity and recognition among legal educators and regulators of reflective practice as an essential learning theory, further exploration about best practices for rigorously operationalizing and assessing reflective practice in legal education are needed. Chapter 2 therefore introduces three reflective practice models and frameworks that have been created by or with legal educators, for the purpose of, in the chapters that follow, identifying how this learning theory could be operationalized (Chapter 3) and assessed in law, based on best practices (Chapters 4 and 5).

### 1.2.3 Historical Development of Assessment of Reflective Practice in Legal Education

Given the dearth of scholarship about reflective practice in legal education in general, it is not surprising that there is also a lack of scholarship on *assessing* reflective practice in legal education. A lack of scholarship on assessing reflective practice in legal education is also a subset of a larger problem of a lack of scholarship on assessment in legal education in general.<sup>58</sup> A lack of empirical research on assessment generally and the assessment of reflective practice in legal education, is a concern.<sup>59</sup> The thesis thus focuses in part on assessment of reflective practice, since as described in Chapters 4 and 5, assessment is a key aid of learning.<sup>60</sup> Aligning learning objectives/outcomes with teaching and assessment methods is considered a general best practice. Another reason to focus on the assessment of reflective practice exercises is that in the competitive law school environment, in which top marks are typically necessary to attain prestigious scholarships and employment positions, students focus on and value assignments and exams that are graded.<sup>61</sup> Simply put, and is further discussed in Chapter 4, assessing reflective

---

<sup>57</sup> Kelley Burton, “Using a Reflective Court Report To Integrate And Assess Reflective Practice in Law” (2016) 9:2 Journal of Learning Design 56 [Burton, “Court Report”] at 58.

<sup>58</sup> See generally Erika Abner & Shelley Kierstead, “Performance Assessment in Legal Education” in Paul F Wimmers & Marcia Mentkowski, eds, *Assessing Competence in Professional Performance across Disciplines and Professions* (Switzerland: Springer International Publishing, 2016).

<sup>59</sup> *Ibid.* Abner and Kierstead’s study found that although a lack of scholarly documentation exists on reforms of assessment procedures in legal education, there *are* some creative approaches being taken to reform assessment procedures.

<sup>60</sup> Richard Grimes & Jenny Gibbons. “Assessing Experiential Learning – us, them and the others” (2016) 23:1 Intl J Clin L Ed 107 at 135.

<sup>61</sup> See e.g. Burton, “Court Report”, *supra* note 57 at 61.



practice exercises can motivate student engagement with the method and focusing on best practices in assessing such exercises can improve the objectivity of the assessor. The purpose of Chapter 4 is therefore to, based on the literature and from a pragmatic, utilization-focused approach, provide a Working List of Considerations for legal educators who wish to design and assess reflective practice exercises.

### **1.3 The Promise of Student Development of Reflective Judgment as a Pathway to Improve the Legal Profession and Justice System**

The prerequisite to outlining ‘how’ to encourage the development of reflective judgment through models (Chapter 2), reflective practice exercises (Chapter 3), and assessment (Chapters 4 and 5), is to identify ‘why’ the development of reflective judgment and instilling a reflective practice for law students is critical. If legal educators are clear on *why* the development of reflective judgment is important for law students, then opportunities for such development can be inserted, encouraged, and practiced in different ways, forms, and on different scales and assessed (in a lesson plan, over the duration of a course term, and throughout a program). Diverse and multiple, ongoing opportunities for students to reflect allows for cycles of learning to occur, and pathways for growth and for reflective judgment to become a ‘habit’ or ‘practice’.

Presenting opportunities for students to practice their reflective judgment is critical for the development of metacognitive thinking skills, lifelong learning in relation to ‘practical skills’, and transformational learning and a culture shift in the legal profession. Two examples, as subset topics of the areas mentioned in the previous sentence are outlined next to tangibly illustrate why and how reflective practice is critical to the current Canadian legal context, as a way to foster students’ (1.3.1) ethical conduct; and (1.3.2) intercultural fluency. Legal educators have an essential role in helping students to build metacognition and to legitimize the practice of reflection for the profession, by integrating such exercises from the beginning of law school. These two examples are returned to in Chapter 5.

#### **1.3.1 Student Development of a Reflective Practice as a Way to Foster Ethical Conduct**

There are values and learning objectives/outcomes in legal education such as ‘professionalism and ethical conduct’ that are longstanding and have the opportunity to be enhanced through more systematic reflective practice. The development of ethical decision-making skills, for example, requires being self-aware to identify a potential issue, using analytical skills to interpret and apply professional conduct rules, assessing risk and choosing and acting on a decision when

there are sometimes several pathways to solve an issue.<sup>62</sup> Reflective judgment empowers law students and lawyers to learn effectively from experience, developing a reflective muscle for ethical and professional decision making. Graduates of law school today will be faced with a host of rule and systemic based ethical questions, as, for example, law societies contemplate new entity and licensing regulatory schemes. Because the governance of ethics requires room for adaptability, a solely rule-based approach hinders development of reflective judgment skills.<sup>63</sup> Critical and creative reflective judgment is needed to both envision scope for growth in practice models and for future directions in the justice system. A focus entirely on the rules does not take into account the reflective judgment, contextual considerations, and emotional intelligence required to interpret and act on the rules. Reflective judgment comes more naturally to some than others, but, like a ‘muscle’, the more that cycles of reflection are practiced, the more the reflective muscle strengthens.<sup>64</sup> The development of a reflective practice may therefore offer a framework to support law graduates continuous need in practice to identify ethical issues and interpret and apply professional conduct rules. As will be further discussed in Chapter 5, almost any law school assignment or exam could include an ethical dilemma, which could in turn have students continuously cycle through practicing their reflective judgment in relation to applying professional conduct rules.<sup>65</sup>

### 1.3.2 Student Development of a Reflective Practice as a Way to Foster Intercultural Fluency Through Self and Other-Awareness

Students enter law school with a variety of backgrounds, political ideologies, and experience that impacts the paradigm from which they learn and act. The self and other-awareness that can be strengthened through a reflective practice could improve cultural fluency, that is the “ability to communicate effectively across cultures”.<sup>66</sup> Thus, at a time when law schools are contemplating how to assist students in developing intercultural competencies and multiple ways of knowing,

---

<sup>62</sup> See e.g. Casey, *supra* note 5 at 338.

<sup>63</sup> See generally M Keet & B Cotter, “Settlement Conferences and Judicial Role: The Scaffolding for Expanded Thinking about Judicial Ethics” (2013) 91 Can Bar Rev.

<sup>64</sup> See e.g. Leering, “Integrated Reflective Practice”, *supra* note 1 at 69.

<sup>65</sup> Casey’s model helps in this regard. See generally Casey, *supra* note 5. See ideas for such reflective practice assignments in Chapter 3. Discussion with recent law school graduates identified the desire for greater incorporation of ethical problem solving and reflection integrated throughout law courses.

<sup>66</sup> Michelle LeBaron & Venashri Pillay, eds, *Conflict Across Cultures: A Unique Experience of Bridging Differences* (Boston, MA: Intercultural Press, 2006) at 26.

including implementing recommendations from the report of the Truth and Reconciliation Commission of Canada<sup>67</sup> and partnering with diverse communities and disciplines, a teaching and learning framework that encourage reflective practice is a promising approach. The development of reflective judgment can elevate students' awareness of self and others through raising their levels of consciousness<sup>68</sup> and confronting their implicit cognitive biases<sup>69</sup>, that is the possible privileges and power imbalances that can lead to such bias.<sup>70</sup> Expanding one's world view requires awareness and reflection on emotions related to the situation and how those emotions can impact one's perspective.<sup>71</sup> Such awareness can broaden open-mindedness and flexibility, and by developing multiple ways of knowing and bridging intercultural conflict, better prepare law graduates to serve the needs of diverse communities.<sup>72</sup> Nike Carstarphen makes this point, that the ability to expand one's worldview starts with having self-awareness of one's own worldview, values, and attitudes :

Imagine the vast possibilities that emerge when we can free our hearts and minds to develop positive attitudes and expectations about human challenges and people. In order to do that, we need to know ourselves and how we interpret and experience

---

<sup>67</sup> The Truth and Reconciliation Commission of Canada. "Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada" (2015), online: <<http://www.trc.ca/websites/trcinstitution/index.php?p=890>>. See Recommendation 28. See also Raquel Aldana, "Intercultural Legal Sensibility as Transformation" (2015), online: <<http://ssrn.com/abstract=2665420>> at 32.

<sup>68</sup> To raise such consciousness, students could read Katharine T Bartlett, "Feminist Legal Methods" (1990) 103:4 *Harvard L Rev* 829 at 863; Ann Seidman and Robert B. Seidman, "Instrumentalism 2.0: Legislative Drafting for Democratic Social Change", (2011) 5 *Legisprudence* 95; and Carrie Menkel-Meadow, "Toward a Jurisprudence of Law, Peace, Justice, and a Tilt Toward Non-Violent and Empathic Means of Human Problem Solving" (2013) *Georgetown Law Faculty Publications and Other Works* 1286. at 95.

<sup>69</sup> To work on improving implicit cognitive biases, students could read Michele Gelfand, "Culture and Negotiation" (White Paper prepared for the Committee on Opportunities in Basic Research in the Behavioral and Social Sciences for the U.S. Military, October 2006) and Stella Ting Toomey, "Managing Identity Issues in Intercultural Conflict Communication: Developing a Multicultural Identity Attunement Lens" in V Benet-Martinez & Y-Y Hong, eds, *The Oxford Handbook of Multicultural Identity: Basic and Applied Psychological Perspectives* (New York: Oxford University Press, 2014) at 11.

<sup>70</sup> On the topic of privileges and power imbalances that can lead to such bias, students could read Jerry Kang et al, "Implicit Bias in the Courtroom", (2011) 59 *UCLA L Rev* 1124.

<sup>71</sup> *Ibid* at 148.

<sup>72</sup> *Ibid*.

the world. We have to understand what shapes our worldview, and be able to recognize where and how our perspectives can be expanded.<sup>73</sup>

The need for self and other-awareness has been identified by legal educators, judges, practicing lawyers, and mediators. For example, some scholars such as Michelle LeBaron reference the “hidden curriculum” in legal education, that is “[m]essages concerning the nature of humans and human relations, and oral and ethical values are embedded in teaching and learning”, so she argues, it is “important to explore how transferable our embedded assumptions may be across worldviews”.<sup>74</sup> In fact, other legal scholars argue that ‘legal language’ itself can negatively impact law students’ future communication with clients. These concerns, however, are windows of opportunity for students’ critical reflection, to, for example, consider how the ‘language of law’ and professional jargon is powerful and as a result can be problematic.<sup>75</sup> Ongoing reflective practice can lead to better awareness of self and others, and consequently lead to more client-centred and creative engagement, utilizing innovative thinking in problem solving and bridging intercultural issues.<sup>76</sup>

---

<sup>73</sup> Nike Carstarphen, “A Map Through Rough Terrain: A Guide for Intercultural Conflict Resolution” in Michelle LeBaron & Venashri Pillay, eds, *Conflict Across Cultures: A Unique Experience of Bridging Differences* (Boston, MA: Intercultural Press, 2006) at 147-148 [emphasis added].

<sup>74</sup> Michelle LeBaron & Mario Patera, “Reflective Practice in the New Millennium” in Christopher Honeyman, James Coben & Giuseppe De Palo, eds, *Rethinking Negotiation Teaching: Innovations for Context and Culture* (Saint Paul, MN: DRI Press, Hamline University School of Law, 2009) 45 at 52. See also Christopher Honeyman, James Coben & Giuseppe De Palo, eds, *Rethinking Negotiation Teaching: Innovations for Context and Culture* (Saint Paul, MN: DRI Press, Hamline University School of Law, 2009).

<sup>75</sup> Elizabeth Mertz, “Inside the Law School Classroom: Toward a New Legal Realist Pedagogy” (2007) 60 Vand L Rev 483 at 513. See also Franziska Dubgen, “Epistemic Injustice in Practice” (2016), 15 Wagdu: A Journal of Transnational Women’s and Gender Studies 1.

<sup>76</sup> See e.g. Karenjot Bhangoo & Venashri Pillay, “Capacities and Skills for Intercultural Conflict Resolution” in Michelle LeBaron & Venashri Pillay, eds, *Conflict Across Cultures: A Unique Experience of Bridging Differences* (Boston, MA: Intercultural Press, 2006) at 121; Cynthia Cohen, “Arts and Building Peace: Affirming the Past and Envisioning the Future”, *United States Institute of Peace Insights Newsletter* (Summer 2015) 5, online: <[https://www.usip.org/sites/default/files/Insights\\_Summer-2015-Arts-Peacebuilding.pdf](https://www.usip.org/sites/default/files/Insights_Summer-2015-Arts-Peacebuilding.pdf)> at 1; Ilana Shapiro, “Extending the Framework of Inquiry: Theories of Change in Conflict Interventions” in Berghof Research Center for Constructive Conflict Management, *Berghof Handbook Dialogue No. 5* (Berlin, Germany: Berghof Research Center for Constructive Conflict Management, 2006) at 2; and Martha E Simmons, “Innovative Thinking and Clinical Education: The Experience of the Osgoode Mediation Intensive Program” (2014) 37:1 Man LJ 365 at 379.

This Chapter started by introducing in section 1.1 the context and relevance of the topic to legal education in the twenty-first century and my own relationship to the topic and approach to the research. A summary of the historical development of reflective practice was outlined in section 1.2, specifically situating the topic in the legal education context. Finally, section 1.3 focused on two timely needs of the profession in relation to the public, which provide an impetus for reflective judgment skills to be taught starting in legal education as a way to foster ethical conduct as well as intercultural fluency through self and other-awareness. Chapter 2 will outline three models of reflective practice, moving towards a practical account in Chapter 3 on how reflective practice exercises associated with the models can be incorporated into the classroom and be used to help meet different graduate attributes.

## **CHAPTER 2: Introduction and Analysis of Three Reflective Practice Models Associated with Legal Education**

In this Chapter, I describe the key components then suggest areas for future research and the overlap among three reflective practice models that have been proposed in the emerging body of literature on this topic in legal education scholarship. I highlight these three models because the results of my literature review found that *these are the oft-cited models that have been designed for and/or with legal educators*. This choice, to analyze models that are already being used and/or are known by legal educators was intentionally made in accordance with my pragmatic and utilization-focused research approach, to advance the operationalization and assessment of reflective practice in and beyond Canadian legal education. Further work could be undertaken to analyze the three models in relation to the many other reflective practice models that have been developed outside of law, as identified in section 1.2.1 of Chapter 1. The three legal education-related models that are described in this Chapter include: (i) Mary Ryan and Michael Ryan’s “Teaching and Assessment for Reflective Learning Model (TARL Model)” (from Australia); (ii) Michele Leering’s “Working Conceptualization” (from Canada); and (iii) Timothy Casey’s “Stages of Reflection” (from the United States).<sup>77</sup> As will be further discussed below, each of the models was designed for and/or with legal educators and was informed by education and/or cognitive and moral development literature.

This Chapter establishes that while each of these models provide a valuable contribution in theorizing and starting to operationalize reflective practice in legal education, the TARL Model is important to observe in detail for several reasons. First, the systematic yet flexible roadmap based on the multiple dimensions of the TARL Model would be helpful to implement and assess reflective practice at different stages of a law school course or program. The TARL Model would be helpful for law school curriculum committees and administrators, in mapping how reflective

---

<sup>77</sup> See respectively, Leering, “Conceptualizing Reflective Practice”, *supra* note 13; Casey, *supra* note 5; and Mary E Ryan & Michael Ryan, “Theorising a model for teaching and assessing reflective learning in higher education” (2013) Higher Education Research and Development. Note that Burton and McNamara also provide a helpful but general conceptualization of reflection in the context of legal education in Kelley Burton & Judith McNamara, “Assessing Reflection Skills in Law Using Criterion-referenced Assessment” (2009) 19 Leg Educ Rev 171 at 173-175. Given the general nature of the conceptualization, it is not included as one of the models that will be discussed at length in this thesis.

practice could be integrated throughout a series of courses or a program, when thinking about the curriculum as a whole. In addition to being helpful for law school curriculum committees and administrators, the TARL Model provides a range of reflective practice teaching methods for the individual legal educator. Second, it makes an important contribution because it takes into account both phases of time and levels of higher order reflective judgment skills. Taking into account both the dimensions of time and steps to reach higher order thinking is important because students' completion of reflective exercises has been found to be superficial unless they have the opportunity to engage in cycles of practicing reflective judgment to develop their reflective muscle over time.<sup>78</sup> Leering's and Casey's model in their current forms, on the other hand, can be seen to exist as complimentary to the TARL Model. Leering's and Casey's models, in their current forms, would be useful to a legal educator within a course, in the perspective that they take to operationalize reflective practice over the duration of a class and/or a term. This Chapter describes the components of the three models in section 2.1, recommendations for further consideration and research among the three reflective practice models in section 2.2, and analyzes the overlap among the three models in section 2.3.

## **2.1 Introduction of Three Reflective Practice Models**

Three key models are focused on as starting points to inform how reflective practice might be operationalized in legal education. These models are described below and each model's components are summarized in Table 2-1 at the end of section 2.1.

### **2.1.1 Summary Description of Mary Ryan and Michael Ryan's Teaching and Assessing Reflective Learning Model (TARL Model)**

The purpose of Australian researchers Ryan and Ryan's Teaching and Assessing Reflective Learning Model (the TARL Model) is to provide a pedagogical 'landscape' that can help legal educators make choices related to teaching and assessing reflective practice more effectively across disciplines (including law) in postsecondary education.<sup>79</sup> The TARL Model was developed through a rigorous process, including an extensive literature review on reflective practice and cognitive, social, and transformative learning theories.<sup>80</sup> Ryan and Ryan have developed, as part of a nationally funded project with teaching staff from numerous disciplines

---

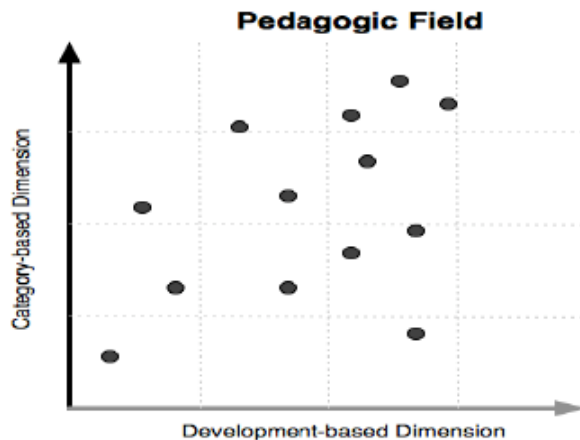
<sup>78</sup> Mary Elizabeth Ryan, ed, *Teaching Reflective Learning in Higher Education: A Systematic Approach Using Pedagogic Patterns* (Switzerland: Springer, 2015) at 96.

<sup>79</sup> Ryan & Ryan, *supra* note 77 at 8.

<sup>80</sup> *Ibid* at 17-18.

(including law), a Pedagogic Field (pictured below in Figure 2-1).<sup>81</sup> The Pedagogic Field is intended to support the growing number of reflective practice conceptualizations, teaching methods, and approaches to assessment that are arising across disciplines.<sup>82</sup>

**Figure 2-1.** Pedagogic Field of the TARL Model<sup>83</sup>



Depicted in Figure 2-1, the Pedagogic Field consists of a two-dimensional scale, with a multi-dimensional field. There are dots on the field that are arranged according to the two dimensions, and link to a range of ‘teaching patterns’.<sup>84</sup>

To bring the TARL Model ‘to life’, Ryan and Ryan have also launched a ‘Pedagogic Hub’, which is interactive version of the Pedagogic Field, an online tool to share teaching patterns and resources and exchange best practices for reflective learning, teaching, and assessment. Ryan and Ryan explain the value of the teaching patterns and the Pedagogic Hub that has been created to host and share reflective practice resources:

The pedagogical pattern (the dots in the pedagogic field in [Figure 2-2]) becomes the hub of a much larger resource, with hyperlinks to: samples of student reflective work evolving from the pattern; assessment descriptors and criteria sheets that have been used; unit/subject objectives; related patterns or tasks; presentations by staff and students; scholarly articles about, or related to, the pattern; and online forums to facilitate staff reflections on their implementation of the pattern or explanations of successful variations to the pattern. Reflections on and variations to the pattern may also spawn new patterns, in a continuous reflexive cycle of effective, evidence-based practice.<sup>85</sup>

<sup>81</sup> *Ibid* at 9.

<sup>82</sup> *Ibid*.

<sup>83</sup> *Ibid*. This Figure was published in a Taylor & Francis Group Journal: [www.tandfonline.com](http://www.tandfonline.com).

<sup>84</sup> Ryan, *supra* note 78 at 19.

<sup>85</sup> *Ibid* at 23-24.



The Pedagogic Hub is thus a helpful tool for educators who are both new to and well-acquainted with reflective practice literature and approaches to teaching and learning. The idea of promoting use of a Pedagogic Hub among legal educators will be further discussed in Chapter 3.

Looking at the TARL Model in closer detail, the Pedagogic Field consists of two dimensions. The horizontal axis of the Pedagogic Field in Figure 2-2 below represents the Development-based Dimension that relates to “developments in students’ thinking over time as they progress through a [course<sup>86</sup> or] program with increasing exposure to disciplinary concepts and practices”.<sup>87</sup> The Development-based Dimension accordingly progresses through stages in three different phases, as depicted below in Figure 2-2: with respect to ‘Course Phase’, from (i) Foundation, to (ii) Theory, to (iii) Professional Practice; with respect to ‘Reflective Focus’, from (i) Self/Society, to (ii) Self/Peers/Society, to (iii) Self/Peers/Colleagues/Clients/Society; and with respect to ‘Experience Type’, from Simulated to Real experiences.<sup>88</sup> The vertical axis of the Pedagogic Field, on the other hand, represents the Category-based Dimension that relates to “levels of thinking or application of higher order ideas”.<sup>89</sup> The 4Rs of reflection, which include (i) Reporting; (ii) Relating; (iii) Reasoning; and (iv) Reconstructing, are fixed on the vertical axis, as depicted below in Figure 2-2, for the purpose of developing a “shared language for students and staff around reflection”.<sup>90</sup> A shared language for students and educators alike, as will be further discussed in Chapters 4 and 5, has been found to be essential in scaffolding and setting out clear expectations necessary to reach integrative levels of reflective practice.<sup>91</sup>

---

<sup>86</sup> *Ibid* at 22.

<sup>87</sup> *Ibid* at 19.

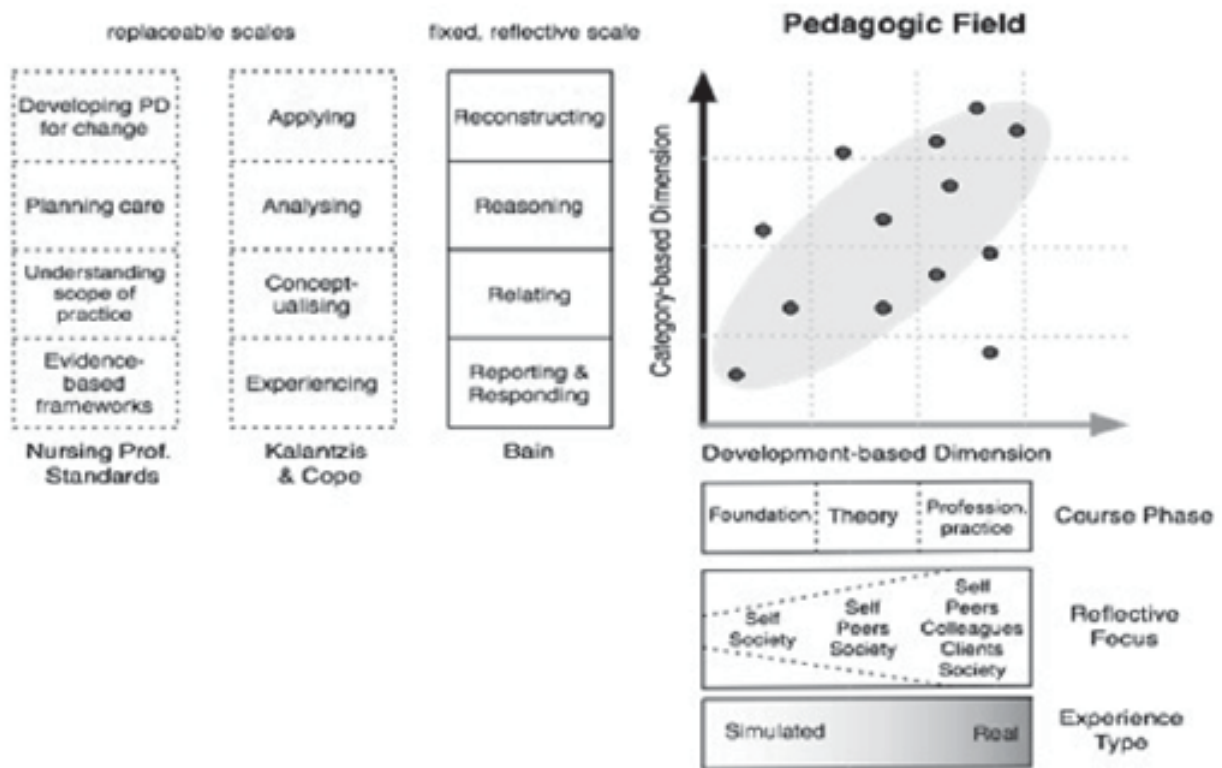
<sup>88</sup> Ryan & Ryan, *supra* note 77 at 10.

<sup>89</sup> *Ibid* at 19.

<sup>90</sup> *Ibid* at 10.

<sup>91</sup> *Ibid* at 17.

Figure 2-2. TARL Model<sup>92</sup>



The prompts for each level of the 4Rs ‘fixed, reflective scale’, depicted on the vertical axis of the scale above in Figure 2-2, are as follows:

Level 1 - Reporting and Responding - Report what happened or what the issue or incident involved. Why is it relevant? Respond to the incident or issue by making observations, expressing your opinion or asking questions.

Level 2 - Relating - Relate or make a connection between the incident or issue and your own skills, professional experience, or discipline knowledge. Have I seen this before? Were the conditions the same or different? Do I have the skills and knowledge to deal with this? Explain.

Level 3 - Reasoning - Highlight in detail significant factors underlying the incident or issue. Explain and show why they are important to an understanding of the incident or issue. Refer to relevant theory and literature to support your reasoning. Consider different perspectives. How would a knowledgeable person perceive/handle this? What are the ethics involved?

<sup>92</sup> *Ibid* at 11. This Figure was published in a Taylor & Francis Group Journal: [www.tandfonline.com](http://www.tandfonline.com).

Level 4 - Reconstructing - Reframe or reconstruct future practice or professional understanding. How would I deal with this next time? What might work and why? Are there different options? What might happen if . . .? Are my ideas supported by theory? Can I make changes to benefit others?<sup>93</sup>

Ryan and Ryan state that other cognitive or moral learning scales, or professional standards scales can replace or coincide with the existing 4Rs of reflection on the Category-based Dimension (vertical axis), in “recognition of the different ways of knowing in different disciplines”.<sup>94</sup> Examples of other cognitive or moral learning scales are depicted under the title ‘replaceable scales’, on the vertical axis above in Figure 2-2. Ryan and Ryan explain that an advantage of the TARL Model is that it allows for adaptability and flexibility through the ‘replaceable’ scale option, since “[m]ost researchers and commentators agree that there are different types or hierarchical levels of reflection”.<sup>95</sup> Thus, other scales such as Casey’s Stages of Reflection, described below in section 2.1.3, can be mapped onto the Category-based Dimension (vertical axis) as is discussed in section 2.3 , below.

#### 2.1.2 Summary Description of Michele Leering’s Working Conceptualization of Reflective Practice

Leering recently developed a Working Conceptualization of reflective practice specific to the legal profession, which is a comprehensive, goal-oriented model. The Working Conceptualization has potential cross-curriculum application. Leering completed an extensive literature review and an action research project that engaged legal educators from a Canadian law school in developing and testing the Working Conceptualization of reflective practice for the legal profession.<sup>96</sup> In some of her more recent writing, she begins to operationalize reflective practice across the curriculum, which will be outlined in Chapter 3.<sup>97</sup> Leering’s working definition is grounded in careful analysis of literature from other disciplines, including seminal writers identified in Chapter 1, such as Schön, Brookfield, Freire, Mezirow, and others.<sup>98</sup> The resulting Working Conceptualization includes the ‘components’ of:

reflection on practice, critical reflection, self-reflection, and integrating these forms of

---

<sup>93</sup> *Ibid* at 16 [emphasis added].

<sup>94</sup> Ryan, *supra* note 78 at 19.

<sup>95</sup> Ryan & Ryan, *supra* note 77 at 4.

<sup>96</sup> See generally Leering, “Conceptualizing Reflective Practice”, *supra* note 13.

<sup>97</sup> Leering, “Integrated Reflective Practice”, *supra* note 1.

<sup>98</sup> Leering, “Conceptualizing Reflective Practice”, *supra* note 13 at 36.

reflection, in addition to developing the capacity to reflect in community to add rigor, all coupled with the necessity of leading to action.<sup>99</sup>

Leering states the ultimate goal is to encourage the development of an ‘integrated reflective practitioner’, which she describes as one who is:

self-aware and critically reflects on practice and theory as a self-directed lifelong learner, reflects collectively and in community and takes action to improve his or her practice” in such a way that “[r]eflective practice becomes a ‘way of being’.<sup>100</sup>

The five components of the model are further described as follows. First, Leering addresses the definition of ‘Reflection on Practice’ and skills:

The reflective legal practitioner learns in action, continually improving his or her technical competence through reflection on experience and learning from practice (which includes skills, technique, and expertise.)<sup>101</sup>

Second, she equates ‘Self-reflection’ with values, summarizing this component of reflective practice as follows:

[A] reflective practitioner engages in self-reflection to build a capacity for self-awareness and self-knowledge to strengthen his or her professionalism. This implies a personal vision, a philosophy of practice, personal and professional integration, growing emotional intelligence, ongoing ethical and moral development, self-awareness, self-direction, self-regulation, and being able to articulate one’s core values.<sup>102</sup>

The third component – ‘Critical Reflection’ – is described below:

The critically reflective practitioner has the capacity, knowledge and desire for critical reflection (which includes critiquing forms of knowledge and questioning what we believe we know, and unpacking our assumptions), leading to the creation of new professional knowledge. This includes critiquing of legal theory or case law, any form of critical thinking including ideology critique... exploring alternative conceptions of the role of law or enlarged conceptions of “access to justice”, using critical theory frameworks...<sup>103</sup>

Fourth, Leering addresses how the previously described components of Reflection on Practice (skills), Self-reflection (values), and Critical Reflection (knowledge) should intersect towards the ultimate goal of Integrative or Integrated Reflection:

---

<sup>99</sup> *Ibid* at 83-84 [emphasis added].

<sup>100</sup> *Ibid* at 84.

<sup>101</sup> *Ibid* at 104 [emphasis added].

<sup>102</sup> *Ibid* at 105.

<sup>103</sup> *Ibid* at 104–105.

[A] reflective legal practitioner integrates all three aspects of reflection through a continuous spiraling from one aspect to another, developing additional insight, knowledge and wisdom, enhancing professional competence, and fostering authenticity.<sup>104</sup>

Finally, she emphasizes the fifth component, the importance of reflecting with others:

The capacity to reflect with others is included as a crucial component of the reflective practice model for legal professionals. This is for two main reasons. First, ensuring the credibility, validity and reliability of one's reflective insights is desirable. A law professor I interviewed expressed it well: it is important to share reflective insights with other people to open them up for scrutiny in a spirit of inquiry to ensure rigour. Schön stressed the importance of rigour, cautioning that reflective practice is not an invitation to “woolly-headedness, a never-never land where anything goes”. Secondly, and significantly, collective reflection is the method by which we learn from one another.<sup>105</sup>

Leering notably draws on Filippa Anzalone's work to argue that the social and emotional aspects of learning need to be developed alongside the cognitive and intellectual aspects of learning.<sup>106</sup> In the Working Conceptualization, Leering recognizes the importance of the cognitive and metacognitive aspect of reflective practice, stating that this benefit, among others, provides an even more persuasive rationale for reflective practice to be recognized as a “professional attribute and core competency beginning in law school”.<sup>107</sup> The cognitive and metacognitive benefits of reflective practice are apparent as the process assists future professionals to ‘learn how to learn’ and to ‘think about one's thinking’ and problem-solving processes - that is, metacognitive abilities – leading to the development of self-directed and lifelong learning skills.<sup>108</sup> The next model focuses more directly on the cognitive and metacognitive benefits associated with reflective practice, but does not directly focus as Leering does on the affective benefits associated with reflective practice.

### 2.1.3 Summary Description of Timothy Casey's Stages of Reflection

Casey's Stages of Reflection were informed by cognitive and moral developmental models to assist legal educators with teaching reflective practice.<sup>109</sup> Casey's model is intended to assist in

---

<sup>104</sup> *Ibid* at 105.

<sup>105</sup> Leering, “Integrated Reflective Practice”, *supra* note 1 at 28-29 [emphasis added; citations omitted].

<sup>106</sup> *Ibid* at 24-25.

<sup>107</sup> *Ibid* at 20 and 38.

<sup>108</sup> Leering, “Conceptualizing Reflective Practice”, *supra* note 13 at 102.

<sup>109</sup> Casey, *supra* note 5.

teaching and learning practices primarily during a simulation or externship, or in a clinical environment.<sup>110</sup> Casey proposes an organizational model based on the combined psychological underpinnings of William Perry’s “Stages of Cognitive Development” that extended Jean Piaget’s child development model;<sup>111</sup> Lawrence Kohlberg’s “Stages of Moral Development” which also grew from Piaget’s work;<sup>112</sup> James Rest, Darcia Narvaez, Stephen Thoma, and Muriel Bebau’s “Neo-Kohlbergian Schema” model which extended Kohlberg’s model;<sup>113</sup> and Patricia King and Karen Kitchener’s “Model of Reflective Judgment” which also grew from Kohlberg’s model, but is distinguished in introducing stages of judgment<sup>114</sup> as opposed to Kohlberg’s stages of moral development. Casey completes an extensive analysis of these cognitive and moral development models, and from this analysis, proposes six stages of reflective practice. The stages start at “a concrete, descriptive level of reflection” and advance to “a more abstract and more contextual [level] of reflection”.<sup>115</sup> The ultimate objective of Casey’s work is parallel to Leering’s in law students ultimately “integrat[ing] reflective practice as a professional value”.<sup>116</sup> The integration of reflective practice as a professional value is said to lead to an increased capacity to “exercise judgment in the professional context”,<sup>117</sup> and, as Casey argues, an increased awareness and consciousness can result in improved and more ethical conduct,<sup>118</sup> which was identified as a benefit in section 1.3.1 of Chapter 1. He describes this learning process as students developing a ‘self-improvement algorithm’.<sup>119</sup> Casey’s six stages of reflective practice progress in complexity from (i) Competence; to (ii) Difference and Choice; to (iii) Internal and (iv) External Context; to (v) Social Context; and finally, (vi) Metacognition.<sup>120</sup> Casey describes the six stages as follows:

The first stage – Competence – asks the student to relate her performance to the standard of a reasonably competent lawyer. At the next stage – Difference and Choice – the student considers different means to achieve the goal of the

---

<sup>110</sup> *Ibid* at 348.

<sup>111</sup> *Ibid* at 324-325.

<sup>112</sup> *Ibid* at 325.

<sup>113</sup> *Ibid* at 325-326.

<sup>114</sup> *Ibid* at 326-327.

<sup>115</sup> *Ibid* at 320.

<sup>116</sup> *Ibid*.

<sup>117</sup> *Ibid* at 321.

<sup>118</sup> *Ibid*.

<sup>119</sup> *Ibid*.

<sup>120</sup> *Ibid* at 320-321.

performance. Middle stages – Internal Context and External Context – ask the student to describe factors that affected her decision-making process, beginning with a consideration of personal preferences, experiences, biases and characteristics, and moving to consideration of the preferences, experiences, biases and characteristics of others. The next stage – Societal Context – asks the student to consider relationships between law and society, social, political, historical, or economic structures that affect the lawyering process. In the final stage – Metacognition – the student should demonstrate an awareness of the effect of reflection on her thinking process.<sup>121</sup>

Casey’s model indeed provides a self-improvement algorithm, that is, an approach and common language around reflective practice for legal educators and students alike.

**Table 2-1.** Summary of Components of Three Reflective Practice Models

<b>TARL Model Components (Ryan and Ryan)</b>	<b>Working Conceptualization Components (Leering)</b>	<b>Stages of Reflection (Casey)</b>
Category-based Dimension (vertical axis) Level 1 – Reporting Level 2 – Relating Level 3 – Relating Level 4 – Reconstructing  Development-based Dimension (horizontal axis) - Course Phase: from (i) Foundation, to (ii) Theory, to (iii) Professional Practice - Reflective Focus Phase: from (i) Self/Society, to (ii) Self/Peers/Society, to (iii) Self/Peers/Colleagues/Clients/Society - Experience Type Phase: from Simulated to Real experiences	- Reflection on Practice (skills) - Self-Reflection (values) - Critical Reflection (knowledge) - Towards Integrative or Integrated Reflection - Praxis (taking action on reflection) - Collective Reflection	1. Competence 2. Difference and Choice 3. Internal Context 4. External Context 5. Societal Context 6. Metacognition

## 2.2 Recommendations for Further Consideration and Research Among Three Reflective Practice Models

The above theorists indicate a need for further and ongoing research and refinement of models for reflective practice specific to law. Indeed, each of the three models make an important contribution to the field, and each model could benefit from further research or

<sup>121</sup> *Ibid* [emphasis added; citations omitted].

clarification.

### 2.2.1 Recommendations Regarding Ryan and Ryan's TARL Model

The TARL Model is the most established and comprehensive approach to draw upon at this time, since it has been referenced by legal educators and scholars from other disciplines, and is attached to learning objectives/outcomes that have been established for legal education in Australia. Furthermore, the intention of the model is to accommodate various frameworks of thinking; so, Leering's model and Casey's model can, as mentioned above, be mapped onto the vertical axis of the Pedagogic Field. That said, an aspect of the TARL Model that would benefit from further research by legal educators is examining the prescriptive appearance of the model's process-oriented approach. The limitation could be a disadvantage where legal educators attempt to map models that are more goal-oriented onto the vertical axis of the Pedagogic Field. For example, Leering's Working Conceptualization does not map onto the TARL framework in an obvious way, without careful analysis (as is further described next in section 2.3, in my attempt to map same). Also, although the TARL Model is meant to accommodate 'multiple ways of knowing', it may be that some ways of knowing do not map onto the seemingly linear dimensions of its Pedagogic Field. The Pedagogic Field of the TARL Model, however, on closer inspection, is what makes this model not linear, but actually multi-dimensional in nature. The TARL Model is systematic, balanced with recognizing the need for flexibility and adaptability, that learning occurs in cycles, and that diverse teaching patterns at various stages of a course and program are necessary to build metacognition and a reflective practice. The systematic yet flexible and adaptable nature of the TARL Model is illustrated through the dozens of teaching patterns that are organized on the Pedagogic Field, which are outlined in Chapter 3.

### 2.2.2 Recommendations Regarding Leering's Working Conceptualization

Leering cautions that her Working Conceptualization "is only the beginning of a conversation about what reflective practice means for legal professionals or what it might offer to law".<sup>122</sup> A strength of Leering's work is her focus on the social and emotional benefits of reflective practice<sup>123</sup> (recall the importance identified in Chapter 1, of the affective dimensions of reflective judgment as it relates to, for example, developing intercultural fluency), an aspect not directly written about in Casey's work. At this point, Leering's Working Conceptualization is more

---

<sup>122</sup> Leering, "Enhancing Capacity", *supra* note 5 at 18.

<sup>123</sup> Leering, "Conceptualizing Reflective Practice", *supra* note 13 at 99.



theoretical and goal-oriented, as opposed to process-oriented, in comparison to Casey's and Ryan and Ryan's work. In her writing, Leering acknowledges the benefits of the metacognitive aspect of reflective practice, which she states provides an even more persuasive rationale for it to be recognized as a "professional attribute and core competency beginning in law school".<sup>124</sup>

Leering's work could be enhanced through an analysis of the metacognitive aspect of reflective practice in relation to her Working Conceptualization.<sup>125</sup> Also, while Leering references Ryan and Ryan's model as an example of a reflective practice model from Australia,<sup>126</sup> and Casey's model as an "alternative and complimentary analysis" to her own, her work would be further enhanced by her own analysis of these models in relation to the Working Conceptualization.<sup>127</sup>

### 2.2.3 Recommendations Regarding Casey's Stages of Reflection

Like Leering, Casey indicates his model provides a starting point, "an improvement over an unstructured approach", and "invites critical inquiry into further refinement of the way we teach reflection".<sup>128</sup> The stages of reflection developed through Casey's analysis are helpful because the stages provide a language to assist students in developing the metacognitive aspects of reflective judgment, that is to 'learn how to learn' and 'think about one's thinking' and problem-solving processes.<sup>129</sup> Casey's focus on cognitive learning and moral development theories provide further support, as Leering suggests,<sup>130</sup> for incorporating reflective practice in legal education. Yet, Casey's model could be enhanced by increasing its scope and transferability in three key ways. First, further analysis could be undertaken to focus on the final metacognition stage of the Stages of Reflection, that is the ultimate goal of achieving higher order metacognitive thinking skills, since the current focus is on the early stages that lead to that point. Further research would be helpful to understand how to help students reach the higher order stage of metacognition as quickly as possible. Second, Casey's model focuses on teaching upper-year law students and on the application of the stages within one course. The applicability and transferability of the model could be expanded through further research on how the stages could

---

<sup>124</sup> Leering, "Integrated Reflective Practice", *supra* note 1 at 38.

<sup>125</sup> Leering, "Conceptualizing Reflective Practice", *supra* note 13.

<sup>126</sup> Leering, "Integrated Reflective Practice", *supra* note 1 at 17.

<sup>127</sup> Leering, "Enhancing Capacity", *supra* note 5 at 17.

<sup>128</sup> Casey, *supra* note 5.

<sup>129</sup> Leering, "Conceptualizing Reflective Practice", *supra* note 13 at 102 (note 75).

<sup>130</sup> *Ibid.*

be incorporated into the first year of the law school program, as well as how the stages could apply or relate to a variety of courses or a program. Third, and perhaps most importantly, Casey's emphasis on cognitive development could be enhanced by directly considering the social and emotional aspect of reflective practice. Leering and Ryan and Ryan identify that excluding recognition that learning is more than a cognitive process, but also an affective process, is a common limitation in some reflective practice models, as appears in the current iteration of Casey's model. This gap may be related to Casey's reliance in part on Kohlberg's theory of development, in absence of reference to the later work of socio-cognitive researcher, Carol Gilligan.<sup>131</sup> Gilligan, once a student of Kohlberg's, argued that Kohlberg's work was male-centric, as the foundation of his model was based only on the study of males and placed men as superior to women in the realm of moral development.<sup>132</sup> His theory was based on "rationality, duty, impartiality, and universally accepted abstract principle of justice", whereas Gilligan's model focused on women's common traits of "care and relationship".<sup>133</sup> Kohlberg never challenged Gilligan's critique, and rather accepted her work as complimentary to his own model.<sup>134</sup> Scholars such as Martha Simmons have more recently advocated for the need for greater integration of affective dimensions in teaching and learning in the context of legal education:

Emotional intelligence is often suppressed in the traditional analytical law school curriculum. As stated by David Culp, in law school, "[p]ersonal values and feelings are brought into rational discourse rather than acknowledged." Rationality must sometimes give way to emotionality. Law students must reflect on themselves and others and exercise emotional intelligence. Feelings are important but, as Culp states, "...the law school experience teaches students to ignore and obscure the feeling side of life, to divorce emotion from logic, as if they were incapable of peaceful coexistence."

Consideration of issues of emotional intelligence must increase. Increasing the focus on emotional intelligence will open the door for students to think

---

<sup>131</sup> This issue was flagged to me by Lucinda Vandervort, Professor at the University of Saskatchewan College of Law and my colleague, Michele Leering, PhD Candidate at Queen's University Faculty of Law. See Carol Gilligan, *In a different voice: Psychological theory and women's development* (Cambridge, MA: Harvard University Press, 1982).

<sup>132</sup> *Ibid.*

<sup>133</sup> *Ibid.*

<sup>134</sup> *Ibid.*

innovatively. Rarely is a problem purely analytical or purely emotional. It is at the intersection of the two that innovation is required.<sup>135</sup>

Finally, in addition to considering the affective dimension of reflective practice, Casey's work could be built on by considering the related body of reflective practice literature from Australia, and now analyzing Leering's and Ryan and Ryan's models in relation to his own. Casey's oft-cited work is helpful, and could be enhanced through the recommendations for further research that were explained above.

Though each model would benefit from further research, all three models provide useful insight into how reflective practice can be conceptualized and theorized in legal education. From the perspective of operationalizing reflective practice both in individual courses and across a curriculum, the TARL Model provides a promising approach. For example, since the Category-based Dimension (vertical axis), as stated above, supports professional standards of fields of practice, legal profession standards could be inserted along the Category-based Dimension (vertical axis) to meet the interests outlined in Chapter 1, of students' development of a reflective practice as a way to foster professional and ethical conduct.<sup>136</sup> Furthermore, "[b]y positioning reflective teaching strategies and assessment across a Pedagogic Field, both time and contextual space are prioritized in pedagogical decision-making" and the "scales provide a 'language' around learning activities and assessment tasks so that students can better understand requirements and connections to professional practice".<sup>137</sup> The communication between legal educators and students about the requirements of and connections to professional practice is critical to teaching and assessing reflective practice, as will be further discussed in Chapters 4 and 5.

Despite several limitations of the TARL Model, it will form the structural basis for the remainder of this thesis, beginning with a summary of how Leering's Working Conceptualization and Casey's Stages of Reflection overlap and map onto the 4Rs of reflection (the fixed reflective scale of the TARL Model Category-based Dimension [vertical axis]). The synthesis of the TARL Model with Leering's and Casey's work that is undertaken below provides essentially an international (and interdisciplinary) opportunity to develop empirical,

---

<sup>135</sup> Simmons, *supra* note 76 at 371-372 [emphasis added; citations omitted].

<sup>136</sup> Ryan, *supra* note 78 at 2.

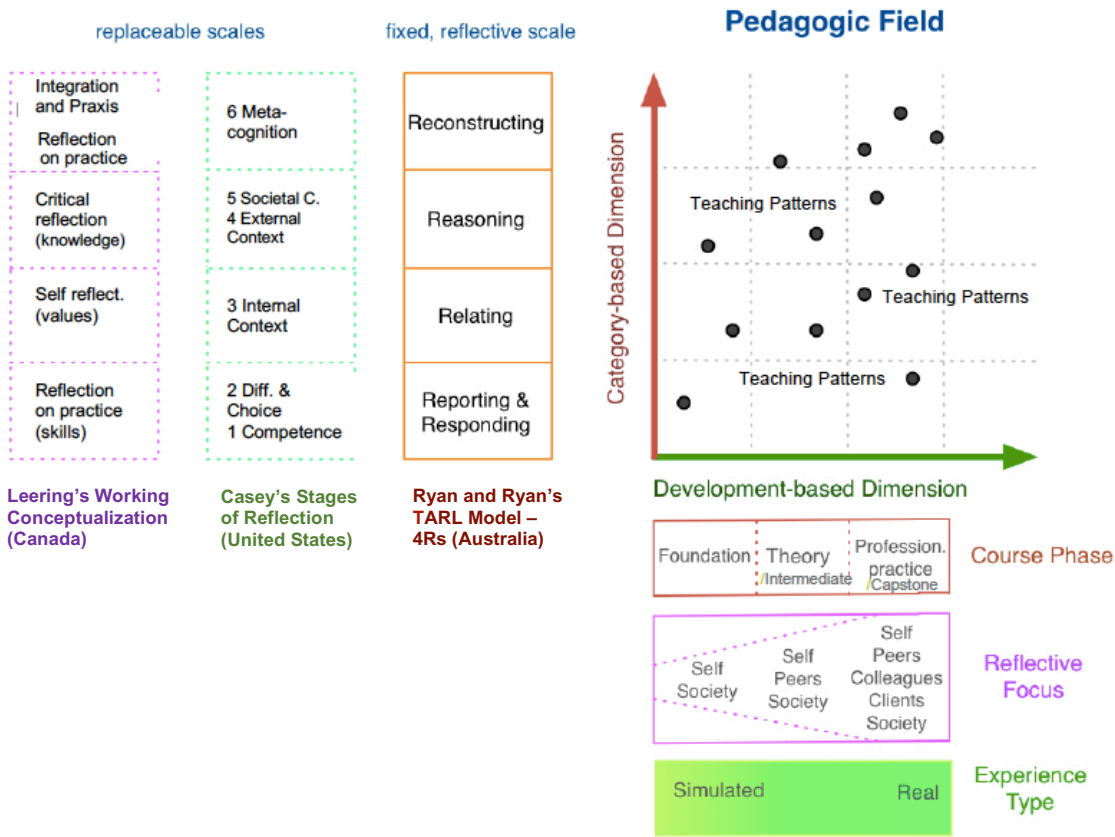
<sup>137</sup> *Ibid* at 22.

evidence-based strategies in developing a reflective practice pedagogy for legal education, rather than, as Ryan asserts, the current unstructured ‘smorgasbord’ approach that has unfolded in various disciplines. The relationship among the TARL Model Development-based Dimension (horizontal axis) and Leering’s and Casey’s work will be analyzed in Chapter 3 because a closer look at the reflective practice exercises associated with each model is required in order to understand the overlap.

### **2.3 Analysis of the Overlap Among Three Reflective Practice Models**

Having outlined above recommendations for further research concerning each model, this section analyzes how Leering’s components and Casey’s stages map onto the Category-based Dimension (vertical axis) of the TARL Model. The purpose of analyzing the overlap among the models is to start to imagine how reflective practice exercises may be operationalized across law school curriculum, which is addressed in Chapter 3. Identifying where there is and is not overlap among the models was important and helpful in uncovering the above recommendations for further research associated with each model. For example, Leering’s Working Conceptualization does not, as was stated above, ‘overlap’ as seamlessly on the TARL Model, since, unlike the other two, her model does not, at this point, follow a ‘hierarchical’ scale, stages, or structure towards higher-order metacognitive thinking. Rather, her model takes more of a ‘spiral’, or ‘cyclical’ approach towards the development of an ‘integrated reflective practitioner’, as was described above. This section maps the overlap among the three models, with the TARL Model being the point of reference, as depicted below in Figure 2-3.

**Figure 2-3.** Proposed Overlap Among Components of Three Reflective Practice Models on Category-based Dimension of TARL Model (Vertical Axis)<sup>138</sup>



### 2.3.1 Overlap Among Ryan and Ryan's 4Rs Level 1 – Leering's Reflection on Practice – Casey's Stages 1 and 2

First, the 4Rs 'Level 1 - Reporting and Responding' to what happened and why the incident was relevant, closely matches with Leering's component of 'Reflection on Practice' and Casey's 'Stage 1 – Competence' and 'Stage 2 - Difference and Choice'. Leering's component of

<sup>138</sup> Adapted by permission from Springer Customer Service Centre GmbH: [Springer Nature] Sue Taylor & Mary Ryan, "Teaching Peer Review Reflective Processes in Accounting" in Mary Elizabeth Ryan, ed, *Teaching Reflective Learning in Higher Education: A Systematic Approach Using Pedagogic Patterns* (Switzerland: Springer, 2015) at 120. Further permission to adapt the Figure was obtained from Springer Nature and the author, as can be viewed below in Appendix C. This Figure was published in a Springer Nature Book: <https://link.springer.com/book/10.1007%2F978-3-319-09271-3>. Note that the levels that make up the visual image of the 'fixed reflective scale' have been adapted by Ryan and Ryan from J D Bain et al, *Reflecting on practice: Student teachers' Perspectives* (Flaxton: Post Pressed, 2002). See more M Ryan, "Improving reflective writing in higher education: A social semiotic perspective" (2010) 16:1 Teaching in Higher Education 99.

Reflection on Practice relates to building ‘technical competence’ through learning from aspects of practice such as technique, skills, or expertise, and reflecting on that experience.<sup>139</sup> Casey’s Stages 1 and 2 coincide since these stages recognize building professional competence. With Casey’s focus on metacognition, he stresses anchoring reflection during Stage 1 - Competence to a fixed standard such as to a code of conduct, alongside a familiar context for the student.<sup>140</sup> A student could, for example, be asked to “describe the standard of competence and then to apply that standard to her performance”.<sup>141</sup> The purpose is to encourage higher level inquiry through application of a competence standard to the student’s performance, and an improved awareness of the purpose of reflection.<sup>142</sup> Stage 2 of Casey’s model also fits under the 4Rs Level 1 and Leering’s description of Reflection on Practice, since this stage, as stated by Casey, “challenges a student to understand there are ‘multiple correct answers’, that is ‘different, equally successful ways to accomplish the lawyering performance’, thus moving the student from a ‘dualistic relationship to knowledge’ to a ‘more multiplistic relationship’”.<sup>143</sup> The focus on starting to develop competence and practice through reflection on an incident or issue bridges Leering’s Reflection on Practice with Casey’s Stage 1 and 2 and the first level of the TARL Model. As will be noted below, Leering’s component of Reflection on Practice also coincides with Level 4 of the 4Rs of reflection, since as Leering emphasizes, reflective practice involves a spiraling among the various components, towards the goal of integrated or integrative reflection.

### 2.3.2 Overlap Among Ryan and Ryan’s 4Rs Level 2 – Leering’s Self-Reflection – Casey’s Stage 3

Next, the 4Rs ‘Level 2 - Relating’, which refers to making “a connection between the incident or issue and your own skills, professional experience, or discipline knowledge”<sup>144</sup> relates to Leering’s description of the component of ‘Self-Reflection’ and Casey’s ‘Stage 3 - Internal Context’. Leering’s conceptualization of Self-Reflection involves building “self-awareness and self-knowledge to strengthen his or her professionalism... and being able to articulate one’s core values”.<sup>145</sup> Casey’s third stage of ‘Internal Context’ addresses a similar goal, through a “focus on

---

<sup>139</sup> Leering, “Conceptualizing Reflective Practice”, *supra* note 13 at 104.

<sup>140</sup> Casey, *supra* note 5 at 334.

<sup>141</sup> *Ibid.*

<sup>142</sup> *Ibid.*

<sup>143</sup> *Ibid* at 338-339.

<sup>144</sup> Ryan & Ryan, *supra* note 77 at 16.

<sup>145</sup> Leering, “Conceptualizing Reflective Practice” *supra* note 13 at 105.

self” (in relation to recognizing the context), and on acknowledging “that every student experience will be different”.<sup>146</sup> Here, according to Leering and Casey, the student would acknowledge *why* a choice was made and explore the inner rationale for the choice, thus encouraging, as was identified in Chapter 1, the development of self-awareness and acknowledging what preferences, biases, characteristics, or experiences impact professional decision-making.<sup>147</sup> Also, in Leering’s Working Conceptualization and the 4Rs level in the TARL Model, it appears that this component/level includes the development of mental health strategies as a professional, including emotional and social intelligence. This stage of developing reflective judgment thus relates to the building of self and other-awareness that was described in section 1.3.2 of Chapter 1.

### 2.3.3 Overlap Among Ryan and Ryan’s 4Rs Level 3 – Leering’s Critical Reflection – Casey’s Stages 4 and 5

The 4Rs ‘Level 3 - Reasoning’ aims to have students identify “significant factors underlying the incident or issue” and refer to “relevant theory and literature to support [their] reasoning”.<sup>148</sup> This 4Rs level parallels Leering’s description of ‘Critical Reflection’ and Casey’s ‘Stages 4 - External Context and 5 - Societal Context’. Leering states that new professional knowledge is created by the practitioner who critically reflects.<sup>149</sup> Critical Reflection includes “critiquing forms of knowledge and questioning what we believe we know, and unpacking our assumptions”.<sup>150</sup> Critical reflection also, according to Leering, “supports transformative learning: when learners...are exposed to ‘disorienting dilemmas’”.<sup>151</sup> An interviewee from Leering’s study stated that critical reflection involves “understand[ing] the larger context of an area of law, a case, or a situation” and that all legal theory “is in fact a critique of existing laws because it looks at what the law is doing, why, and how it does it”.<sup>152</sup> Similarly, in the External Context stage of Casey’s model, “the student moves from an absolutist to a contextual understanding of the lawyering process”,<sup>153</sup> and the Societal Context stage “has the student concurrently combine

---

<sup>146</sup> Casey, *supra* note 5 at at 339-341 and 349.

<sup>147</sup> *Ibid.*

<sup>148</sup> Ryan & Ryan, *supra* note 77 at 16.

<sup>149</sup> Leering, “Integrated Reflective Practice”, *supra* note 1 at 21.

<sup>150</sup> *Ibid.*

<sup>151</sup> Leering, “Conceptualizing Reflective Practice” *supra* note 13 at 97.

<sup>152</sup> *Ibid.*

<sup>153</sup> Casey, *supra* note 5 at at 341-344.

internal, external, and societal contexts, arguing that the success of the representation ‘depends on the lawyer’s awareness of these different contexts’”.<sup>154</sup> Casey’s Societal Stage is “a shift from focusing on self to the universal, becoming aware of ‘social power structures’ and roles of lawyer in society, as well as awareness of principles of ‘critical legal theory’ that can guide future professional decision making”.<sup>155</sup> In this way, critical reflection becomes the ‘glue’ between acknowledging the external and societal factors that impact internal decision making.<sup>156</sup>

#### 2.3.4 Overlap Among Ryan and Ryan’s 4Rs Level 4 – Leering’s Reflection on Practice, Integrated Reflection, and Praxis – Casey’s Stage 6

The 4Rs Level 4 of ‘Reconstructing’, which involves considering how to change future practice and/or contemplating whether one’s ideas are “supported by theory” or if changes can be made to “benefit others”, parallels Leering’s components of ‘Integrated Reflection’, again, ‘Reflection on Practice’, and ‘Praxis – Taking Action on Reflection’, and Casey’s final stage that focuses on ‘Metacognition’. As explained above in more detail, Leering emphasizes it is critical that her proposed components of reflective practice integrate through “a continuous spiraling from one aspect to another”.<sup>157</sup> She argues that “a lack of integration ... may become problematic, because an inconsistency may develop between what one says one believes and what one does, between one’s ‘espoused theory’ and ‘theory-in-use’”.<sup>158</sup> An interviewee from Leering’s study cautioned that “reflective practice without a focus on critical and self-reflection, that only focuses on the technical-rational aspect of lawyering can result in a lawyer becoming ‘an instrument of great injustice’, but that the three components and integration of those components is challenging and aspirational”.<sup>159</sup> Regarding the component of Praxis – Taking Action on Reflection, Leering indicates that a reflective legal practitioner “takes appropriate action based on the momentum created by that reflection”.<sup>160</sup> ‘Metacognition’, the final stage of Casey’s model, is described as a student “thinking about thinking”, that is a student’s “awareness of and

---

<sup>154</sup> *Ibid.*

<sup>154</sup> *Ibid.*

<sup>155</sup> *Ibid* at 344-346.

<sup>156</sup> *Ibid.*

<sup>157</sup> Leering, “Integrated Reflective Practice”, *supra* note 1 at 26.

<sup>158</sup> Leering, “Conceptualizing Reflective Practice” *supra* note 13 at 101.

<sup>159</sup> *Ibid* at 99.

<sup>160</sup> *Ibid* at 105.



relationship to the learning process”, based on the prompts from previous stages of reflection.<sup>161</sup> Corresponding with Leering’s component of Integration is Casey’s Metacognitive stage, which “marks a point of ‘actualization’, of ‘movement from universal back to self’”.<sup>162</sup> Casey also highlights the importance of “integrations among the various stages”.<sup>163</sup> In this regard, Casey explains, “[t]he reflective process [will have] amplified the knowledge, skill and values related to professional identity”, which coincides with the three key components of Leering’s model.<sup>164</sup> Reaching the integrated or top level of the models represents an ability for higher order thinking, which can lead to new methods of approaching decision-making, monitoring knowledge, and self-assessing knowledge and skills, progressing from a novice to an expert.

Finally, there does not appear to be a parallel stage in Casey’s model to Leering’s component of ‘Collective Reflection’. Leering’s component of Collective Reflection would most closely correspond to ‘Reflective Focus’ that is identified on Ryan and Ryan’s Development-based Dimension (on the horizontal axis) in Figure 2-3, above.

**Table 2-2.** Summary of Proposed Overlap Among Components of Three Reflective Practice Models on Category-based Dimension of TARL Model (Vertical Axis)

<b>TARL Model 4Rs of Reflection (Ryan and Ryan)</b>	<b>Working Conceptualization (Leering)</b>	<b>Stages of Reflection (Casey)</b>
Level 1 – Reporting	Reflection on Practice (skills)	1. Competence
		2. Difference and Choice
Level 2 – Relating	Self-reflection (values)	3. Internal Context
Level 3 – Reasoning	Critical Reflection (knowledge)	4. External Context
		5. Societal Context
Level 4 – Reconstructing	Reflection on Practice (skills)	6. Metacognition
	Towards Integrative or Integrated Reflection	
	Praxis (taking action on reflection)	
	Collective Reflection	

This Chapter summarized the components of three reflective practice models that have been developed by or with legal educators, provided recommendations for further consideration

<sup>161</sup> Casey, *supra* note 5 at 346-347.

<sup>162</sup> *Ibid* at 347.

<sup>163</sup> *Ibid* [emphasis added].

<sup>164</sup> *Ibid* at 338 [emphasis added].

and research, and analyzed the overlap among the models. To reiterate, the objective of mapping the overlapping components of these models is to next operationalize reflective practice exercises, to work towards establishing a pedagogy of reflective practice in legal education. I summarize the reflective practice exercises associated with the three models to form the Working Operationalization that follows next in Chapter 3.

### **CHAPTER 3: Synthesis of Three Models Towards a Working Operationalization of Reflective Practice In Legal Education**

Each of the three models described in Chapter 2 also include examples that illustrate how reflective practice exercises can be integrated into legal education courses. The TARL Model is the framework from which I build a Working Operationalization of reflective practice exercises in undergraduate legal education, which will be described below and is visually represented at Appendix A. This Chapter thus advances the literature by operationalizing reflective practice across the law school curriculum, building on the TARL Pedagogic Field. In section 3.1, each model's reflective practice exercises are organized in accordance with both the Category-based (vertical axis) and Development-based (horizontal axis) Dimensions of the TARL Pedagogic Field. First, section 3.1.1 identifies that Ryan and Ryan's TARL Model has involved, as described in Chapter 2, the development of a Pedagogic Field and online Pedagogic Hub, which hosts, as this section summarizes, dozens of teaching patterns along the Category-based and Development-based Dimensions that can be integrated into a course or across a program.<sup>165</sup> Second, Leering also identifies, as will be summarized below in section 3.1.2, examples of how reflective methods could unfold in relation to the components of her Working Conceptualization, which are mapped on the Category-based Dimension of the TARL Model (vertical axis), and temporally, which correspond with her proposed 'Learning Phases' and the Development-based Dimension of the TARL Model.<sup>166</sup> Finally, Casey focuses primarily on how reflective assignments can be planned to help students progress through the Stages of Reflection, which are mapped in section 3.1.3 on the Category-based Dimension of the TARL Model in accordance with the analysis from Chapter 2 and in reference to the Development-based Dimension, which is analyzed below. Casey's reflective assignments were proposed over the duration of a single course in an upper-year law school externship or clinical placement, and thus the case is made below as to where the assignments map onto the Development-based Dimension of the TARL Model.<sup>167</sup>

---

<sup>165</sup> Pattern Language, online: Developing Reflective Approaches to Writing Project <<https://sites.google.com/site/qutdrawproject/pattern-language>> ["Pattern Language"].

<sup>166</sup> Leering, "Integrated Reflective Practice", *supra* note 1.

<sup>167</sup> Casey, *supra* note 5.

After identifying the reflective practice exercises proposed by Ryan and Ryan, Leering, and Casey, section 3.2 provides recommendations for further consideration and research among the three models' reflective practice exercises, in order to start building a rigorous Pedagogic Field specific to legal education, as opposed to a 'smorgasbord'<sup>168</sup> approach to reflective practice exercises. The need is highlighted, however, for systematic approaches to operationalize reflective practice to be balanced with adaptability and flexibility to encourage legal educators to engage with this type of teaching, and to maximize the benefits students could attain with this type of learning, as Simmons explains:

Much like other components of learning, however, reflection cannot happen in an orthodox way. Some students will reflect more meaningfully in writing, while others will do so orally. Some students prefer to reflect instantaneously while others prefer to take more time. Flexibility must be provided to allow for meaningful reflection.<sup>169</sup>

The purpose of this Chapter is therefore to set the stage to establish a best practices Pedagogic Hub that is adaptable and flexible for legal educators to engage with, yet supports a systematic, empirically driven, and continuously evolving pedagogy of reflective practice in legal education. The development of the Pedagogic Hub also enables legal educators who are new to the method to access the tool and begin integrating reflective practice exercises and assessments in an incremental way. Special attention will be given to factors of reflective practice exercises that might impact students reaching the metacognitive and integrated reflective practitioner level, since if a student does not reach the final, integrated stage, they have not tapped into their truest potential for growth, nor ability to best serve their clients. Section 3.3 concludes with taking into account possible graduate attributes, learning objectives/outcomes, and performance indicators that may be associated with metacognitive, integrated levels of reflective judgment, which could consequently help to advance the aspirations identified in Chapter 1, such as developing a reflective practice as a way to foster ethical conduct and intercultural fluency. By identifying sample graduate attributes, learning objectives/outcomes, teaching methods, and performance indicators that may be associated with metacognitive, integrated levels of reflective judgment, section 3.3 also sets the stage for Chapter 4, to align such considerations with how reflective practice exercises are assessed.

---

<sup>168</sup> Ryan, *supra* note 78 at 22.

<sup>169</sup> Simmons, *supra* note 76 at 380.

### 3.1 Summary and Mapping of Three Models' Reflective Practice Exercises On The TARL Pedagogic Field

Reflective practice exercises are most effective when integrated among classes in a course, and over the duration of a course and a program in a cycle in order to build a reflective muscle.<sup>170</sup> This section provides a summary of the reflective practice exercises associated with the TARL Model, Working Conceptualization, and Stages of Reflection. The reflective practice exercises are organized by both the reflection level (the Category-based Dimension [vertical axis] of the TARL Model) and the course or program phase (the Development-based Dimension [horizontal axis]) of the TARL Model). A visual mapping of the descriptions that follow throughout section 3.1 can be viewed at Appendix A.

#### 3.1.1 Summary and Mapping of Teaching Patterns from Ryan and Ryan's TARL Model

As described in the previous chapter, the TARL Model consists of two dimensions, which aid in organizing and selecting the teaching patterns associated with this model – a Category Based Dimension (climbing the vertical axis from Level 1 - Reporting and Responding; to Level 2 - Relating; Level 3 - Reasoning; and Level 4 - Reconstructing), and a Development-based Dimension (progressing on the horizontal axis with respect to 'Course Phase', from (i) Foundation, to (ii) Theory, to (iii) Professional Practice; with respect to 'Reflective Focus', from (i) Self/Society, to (ii) Self/Peers/Society, to (iii) Self/Peers/Colleagues/Clients/Society; and with respect to 'Experience Type', from Simulated to Real experiences). A variety of teaching patterns that are relevant across numerous disciplines, including legal education, are plotted on the Pedagogic Field of the dimensions, as depicted below in Figure 3-1. As explained in Chapter 2, the online Pedagogic Hub hosts clickable teaching patterns on the Pedagogic Field that are labelled with an abbreviation and, once clicked, expand into a detailed description. Ryan and Ryan metaphorically equate their teaching patterns and the associated descriptions to a recipe with ingredients, and the educators to a cook.<sup>171</sup> Each teaching pattern consists of, as relevant, these 'ingredients': (i) a problem statement; (ii) the context; (iii) the pattern; (iv) related patterns; (v) notes; (vi) resources (e.g. assessment instruments and student materials); and (vii) references (e.g. related scholarly papers).<sup>172</sup> Educators have access to these teaching patterns with

---

<sup>170</sup> Leering, "Integrated Reflective Practice", *supra* note 1 at 12.

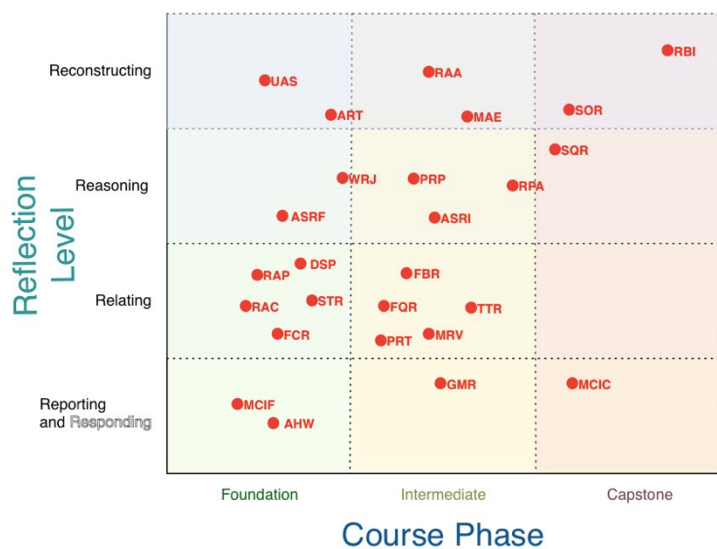
<sup>171</sup> Ryan, *supra* note 78 at 23.

<sup>172</sup> See image of A Teaching Pattern, online: <<https://44530135-a-62cb3a1a-s-sites.googlegroups.com/site/qutdrawproject/reflection/figure->

ingredients, and depending on their experience and comfort level, can deviate from, add to, or alter the recipe and ingredients.<sup>173</sup> Ryan and Ryan further explain the adaptability and flexibility of the teaching patterns associated with the TARL Model:

Another aspect of the metaphor that highlights a key focus of reflection in the project is that recipes can be represented in multiple modes: written, visual, oral, performed or combinations of these. So too, we see the potential for reflection to be represented in multimodal forms, thus the pedagogical patterns encompass these different modes. This metaphor enables teachers to see that they can ‘own’ the patterns and use the elements and modes of representation that fit their context and student needs.<sup>174</sup>

**Figure 3-1.** Pedagogic Hub with Clickable Teaching Patterns Plotted on Pedagogic Field<sup>175</sup>



6.jpg?attachauth=ANoY7cqCmQTLWOTpRcn8h\_Zik4QftjVi8h8T05RGI\_t\_O6HIcVDbkW6zh-  
\_Gn8MjiY0Cd-  
45NkPfmBv40uxuM\_CLRzSEb2rW8vAPoxdb51P8nnLWyVoFgHkNeS\_Vaq2WmmGubvW6pt  
IAyke9J6QyYF6txLWTawO6pppSSHCEK5zA3o3hi-  
mKzynK6wKehZLWYHNTCLAn5cH\_iT-  
xNRVhcXNTYFeGRrIYYDadIsB5UPRFKNKsf5IaOIM%3D&attredirects=1> and A Sample  
Teaching Pattern: Fishbowl Reflection (FBR), online: <[https://44530135-a-62cb3a1a-s-sites.googlegroups.com/site/qutdrawproject/reflection/figure-5.jpg?attachauth=ANoY7cq8AXUIT3wUgshqexlqXfpfZzGDME\\_dCtP4RH4gDhiKiUbUVHk0tM6soXoCwa03QCsIfHBthZS\\_jQ2\\_e8vIELPWk0e0hkJtOHwAyU-IUEoQCXAOvR99s6rHCmAITQUZ1CmVTNdEzj4JulmFN4s1Avz4mn2fUcm0XB3\\_VW3bv3i9NNyXp0FtwKmPly9VgYsgbtBI4iGYSGk1Ljlo6FDqcPU5pV4NN67uZLRYGZd6t6kk6yV\\_YOk%3D&attredirects=0](https://44530135-a-62cb3a1a-s-sites.googlegroups.com/site/qutdrawproject/reflection/figure-5.jpg?attachauth=ANoY7cq8AXUIT3wUgshqexlqXfpfZzGDME_dCtP4RH4gDhiKiUbUVHk0tM6soXoCwa03QCsIfHBthZS_jQ2_e8vIELPWk0e0hkJtOHwAyU-IUEoQCXAOvR99s6rHCmAITQUZ1CmVTNdEzj4JulmFN4s1Avz4mn2fUcm0XB3_VW3bv3i9NNyXp0FtwKmPly9VgYsgbtBI4iGYSGk1Ljlo6FDqcPU5pV4NN67uZLRYGZd6t6kk6yV_YOk%3D&attredirects=0)>.

<sup>173</sup> Ryan, *supra* note 78 at 23.

<sup>174</sup> *Ibid.*

<sup>175</sup> “Pattern Language”, *supra* note 165. This Figure was reproduced with permission from the authors.

The dots on the Pedagogic Field, as depicted above, are the teaching patterns organized by Ryan and Ryan in accordance with a specified reflection level and course phase. Again, by clicking on a dot, a new page opens that explains the ingredients of the teaching pattern. The teaching patterns are described below starting with the reflection level (Category-Based Dimension [vertical axis]), since this dimension reflects the process towards metacognitive, integrated levels of thinking, one of the overall benefits, as indicated in Chapter 1, of introducing reflective practice into legal education.

*Teaching Patterns Organized by Category-based Dimension of TARL  
Pedagogic Field (Vertical Axis)*

Teaching Patterns for Level 1 – Reporting and Responding

At Level 1 – Reporting and Responding, the following teaching patterns are proposed by Ryan and Ryan across the Foundation, Intermediate/Theoretical, and Capstone/Professional Practice course/program Dimensions. First, the Foundation-dimension pattern of ‘Mapping Critical Incidents’,<sup>176</sup> depicted as ‘MCIF’ at Appendix A, involves “teaching first year students to develop their reporting and responding skills from the 4Rs of reflection... so they can recognize which instances or incidents or issues are worthy of reflection”.<sup>177</sup> A second Foundation-dimension teaching pattern is ‘Ad Hoc Web’, labelled ‘AHW’, which aims to resolve the objective style of writing that is most often required of students, with the contrastingly objective *and* subjective points of view that reflective writing requires.<sup>178</sup> This strategy involves asking students to formulate a response to a discipline-specific problem, thus “relat[ing] the issue or incident to their own knowledge and experience in a [discipline-specific] area, but ... also draw[ing] on evidence from key literature and relevant theory to reason and explain why something happened the way it did, why they hold particular views, and what other options there might be”.<sup>179</sup>

At the Intermediate/Theoretical Dimension of Level 1, are teaching patterns such as ‘Group Microcasts for Reflection’, identified as ‘GMR’, which has students “reify (make into an

---

<sup>176</sup> “Pattern Language”, *supra* note 165. Specifically, see “Mapping Critical Incidents (MCIF)”, online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/mcif>>.

<sup>177</sup> *Ibid.*

<sup>178</sup> “Pattern Language”, *supra* note 165. Specifically, see “Analysing a Scenario Response - Foundation (ASRF)”, online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/asrf>>.

<sup>179</sup> *Ibid.*

object) an experience or discussion” by having students “make a discrete product” such as a small podcast (60 seconds) during a tutorial (30 minutes of preparation), which “serves to make the product small enough to make in a tutorial class and also to trigger critical evaluation of the content, so that only important elements are included”.<sup>180</sup>

At the Capstone/Professional Practice Dimension of Level 1, students could be guided through a “clear purpose” to “move to higher levels of critical and reconstructive reflection” through the ‘Mapping Critical Incidents’ exercise, depicted as ‘MCIC’.<sup>181</sup> This pattern teaches “final year students to develop their reporting and responding skills from the 4Rs of reflection, so they can recognize which instances or incidents or issues from their professional practice are worthy of reflection”.<sup>182</sup>

#### Teaching Patterns for Level 2 – Relating

The Level 2 – Relating component of the TARL Model starts with the Foundation-dimension teaching pattern of ‘Future Career Reflections’, labelled ‘FCR’ at Appendix A, which has students construct a portfolio with reflections, so that students “can keep track of issues, responses, and reformulations as they occur over a semester”.<sup>183</sup> Another Foundation-level pattern, ‘Reflection Assessment Criteria’, identified as ‘RAC’, has the educator “taking time to explain the language of the criteria around reflection” to help students to “respond appropriately” and be clear on expectations of reflective exercises.<sup>184</sup> A third Foundation-dimension teaching pattern, ‘Reflections About Performance’, depicted as ‘RAP’, involves students attending a “performance in the discipline area that interests them”, and then developing a “mode of presenting their interaction with, analysis of and reflection on this performance”, while investigating “relationships between this performance, themselves and the social and cultural context in which it has been produced”.<sup>185</sup> The students’ findings are presented to the class over

---

<sup>180</sup> “Pattern Language”, *supra* note 165. Specifically, see “Group Microcasts for Reflection (GMR)”, online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/gmr>>.

<sup>181</sup> “Pattern Language”, *supra* note 165. Specifically, see “Mapping Critical Incidents – Capstone (MCIC)”, online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/mcic>>.

<sup>182</sup> *Ibid.*

<sup>183</sup> “Pattern Language”, *supra* note 165. Specifically, see “Future Career Reflections (FCR)”, online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/fcr>>.

<sup>184</sup> “Pattern Language”, *supra* note 165. Specifically, see “Reflection Assessment Criteria (RAC)”, online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/rac>>.

<sup>185</sup> “Pattern Language”, *supra* note 165. Specifically, see “Reflections About Performance (RAP)”, online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/rap>>.



the course of a semester and are catalogued through students' blog posts that offer further opportunity for reflection. In legal education, this teaching pattern could be used in an assignment where students attend a dispute resolution or court proceeding and critically reflect on their experience, for example. This example is further explored at section 5.2.1 in Chapter 5 of this thesis. In the Foundation-dimension teaching pattern of 'Start Talking Reflection', labelled 'STR', students are invited to engage in reflective speaking in a scaffolded and non-threatening setting, with the idea that "the sooner people 'speak' the language of a discipline, the more likely they are to learn how to think and work professionally".<sup>186</sup> The final Foundation-dimension teaching pattern at Level 2 is 'Double Sided Projects', identified as 'DSP', which recognizes that in order for learning journals to be effective, they "need to be included in the assessment and woven into the project product", which means one 'side' is a 'traditional' essay and the 'other side' is "reflective writing that describes, links, theorizes and has a transformative effect on the author".<sup>187</sup>

At the Intermediate/Theoretical Dimension of 'Level 2 – Relating' are five different teaching patterns. First, 'Prompting Reflection with the Help of Technology', depicted as 'PRT' involves videotaping students role-playing a discipline-specific related task with peers, then having students reflect individually and on their peers' feedback.<sup>188</sup> The 'Making Reflection Visible' teaching pattern, labelled 'MRV', involves inviting students to videotape spoken reflective thoughts, which fosters individual and potential peer-to-peer learning by sharing the video with classmates (after careful scaffolding leading up to such sharing, in order to minimize any social risks).<sup>189</sup> Third, the strategy of 'Formulating Questions for Reflection', identified as 'FQR' involves students "asking themselves, and others, specific, probing questions to get them to start thinking about their experiences in a different way" and challenging their own

---

<sup>186</sup> "Pattern Language", *supra* note 165. Specifically, see "Start Talking Reflection (STR)", online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/str>>.

<sup>187</sup> "Pattern Language", *supra* note 165. Specifically, see "Double Sided Projects (DSP)", online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/dsp>>.

<sup>188</sup> "Pattern Language", *supra* note 165. Specifically, see "Prompting Reflection with the help of Technology (PRT)", online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/prt>>.

<sup>189</sup> "Pattern Language", *supra* note 165. Specifically, see "Making Reflection Visible (MRV)", online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/mrv>>.

assumptions in, for example, experiential learning placements.<sup>190</sup> A fourth example is the ‘Fishbowl Reflection’, labelled ‘FBR’, which involves reducing the cognitive overload that reflection can create, to “remove the students from participation in an activity, so that they can concentrate on the tasks of reflective thinking and expression”, by observing a discussion by a group.<sup>191</sup> The final teaching pattern listed at Level 2 – Relating is ‘Task-orientated Teamwork Reflection’, labelled ‘TTR’ which aims to help “make teamwork processes explicit”, such as “on-task communication, conflict resolution, priority setting, etc.”.<sup>192</sup> The purpose of explicitly naming the terms is to make them “more available for effective learning through reflection”.<sup>193</sup> A book chapter was composed on the implementation of this particular teaching pattern in legal education, which required law students to reflect on the development of skills such as teamwork or letter writing, after completing a client letter and a supporting memorandum.<sup>194</sup>

#### Teaching Patterns for Level 3 – Reasoning

There are also numerous teaching patterns at the third level of Reasoning, which exemplify the importance of scaffolding reflective learning exercises. For example, the ‘Analyzing a Scenario Response’ exercise depicted as ‘ASRF’ at Appendix A builds on the Level 1 – Reporting and Responding version of the teaching pattern to have students focus on *both* their Relating and Reasoning skills to analyze an “issue or incident under discussion around their own world views and relate it to their first-hand experiences”.<sup>195</sup> A second Foundation-dimension teaching pattern, ‘Writing Reflective Journals’, labelled ‘WRJ’, involves the potential for students to reach higher levels of reflection, especially if students are reflecting on off-campus learning experiences,

---

<sup>190</sup> “Pattern Language”, *supra* note 165. Specifically, see “Formulating Questions for Reflection (FQR)”, online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/fqr>>.

<sup>191</sup> “Pattern Language”, *supra* note 165. Specifically, see “Fishbowl Reflection (FBR)”, online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/fbr>>.

<sup>192</sup> “Pattern Language”, *supra* note 165. Specifically, see “Task-orientated Teamwork Reflection (TTR)”, online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/ttr>>.

<sup>193</sup> *Ibid.*

<sup>194</sup> Ryan, *supra* note 78 at 96.

<sup>195</sup> “Pattern Language”, *supra* note 165. Specifically, see “Analysing a Scenario Responses – Foundation (ASRF)”, online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/asrf>>.

provided that the requirements and assessment criterion for the entries are outlined to students before they begin the assignment (as will be discussed further in Chapter 4).<sup>196</sup>

At the Intermediate/Theoretical Dimension of Level 3, is ‘Reflection as a Professional Activity While Service Learning’, identified as ‘RPA’, which can be used with students in the context of a service learning placement. Here, the students are asked to complete a portfolio of reflections throughout their placement, for the purpose of tracking that “allows thematic issues and questions that range over the content of the unit to be addressed comprehensively and reinforces the development of the students’ professional identity”.<sup>197</sup> This exercise can involve both individual and peer-to-peer reflections.<sup>198</sup> An Intermediate version of the ‘Analyzing a Scenario Response’ teaching pattern, labelled ‘ASRI’, is also available through the Pedagogic Hub, which builds on the above Foundation-dimension version.<sup>199</sup>

Finally, at the Capstone/Professional Practice Dimension of Level 3 is the ‘Socratic Questions for Reflection’ teaching pattern, depicted as ‘SQR’, which can be used as an alternative approach to the prescribed 4Rs of reflection questions. This pattern aims to prompt students themselves to “formulate their own questions in order to probe the complex issues they encounter”.<sup>200</sup>

#### Teaching Patterns for ‘Level 4 – Reconstructing’

There are five key teaching patterns listed for ‘Reconstructing’, the final level of the TARL Model. At the Foundation-dimension of Level 4 is the teaching pattern, ‘Using Assessment Scenarios’, labelled as ‘UAS’ at Appendix A, which is meant to assist students in using feedback that they receive from assessors to their advantage; that is, by “taking on different perspectives or roles, students can be taught how to reflect on their assessment work and to plan how to

---

<sup>196</sup> “Pattern Language”, *supra* note 165. Specifically, see “Writing reflective journal (WRJ)”, online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/wrj>>.

<sup>197</sup> “Pattern Language”, *supra* note 165. Specifically, see “Reflection as a Professional Activity during Service Learning (RPA)”, online <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/rpa>>.

<sup>198</sup> *Ibid.*

<sup>199</sup> “Pattern Language”, *supra* note 165. Specifically, see “Analysing a Scenario Responses – Intermediate (ASRI)”, online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/asri>>.

<sup>200</sup> “Pattern Language”, *supra* note 165. Specifically, see “Socratic Questions for Reflection (SQR)”, online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/sqr>>.

reconstruct their future practice based on past assessment experiences”.<sup>201</sup> Second, through ‘Analyzing Reflective Texts’, depicted as ‘ART’, students have an opportunity to “analyze texts that embed reflection”, thus helping to scaffold the learning of academic reflective writing and the “explicit teaching of the structure and textual features of the genre”.<sup>202</sup>

In the Intermediate/Theoretical Dimension of Level 4, the teaching pattern of ‘Making Annotated Exemplars’, identified as ‘MAE’, involves providing “examples of academic reflection ... to students to serve as models”, with “...key features [pointed out] by using expert annotation”, to help students navigate the “distinct genre” of academic reflective writing.<sup>203</sup> A second example, ‘Reflections Around Artefacts’, labelled ‘RAA’, involves the “display of an artefact (‘...[for example] a plan or a structured document’) and identifying the leverage that this provides to stimulate recall and higher-order reflection”.<sup>204</sup> An example of implementing this teaching pattern in legal education could be providing a legal brief for students to review, alongside a guided critical reflection of the document.<sup>205</sup>

Finally, at the Capstone/Professional Practice dimension of Level 4, the teaching pattern ‘Second Order Reflections’, identified as ‘SOR’, involves a “two-stage approach” to “separate[e] out a distinct phase (usually an assignment) that targets higher-order reflection, and by making this phase extend over time, students can approach the task more effectively”.<sup>206</sup> The teaching pattern of ‘Reflective Blogs During Internship’, labelled ‘RBI’, has students complete reflective writing using an online blog during an internship. The exercise was created after an unsuccessful attempt at having students keep an offline reflective journal during internship.<sup>207</sup> The pattern involves peer-to-peer assessment, which will be described in Chapter 4.

---

<sup>201</sup> “Pattern Language”, *supra* note 165. Specifically, see “Using Assessment Scenarios (AUS)”, online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/uas>>.

<sup>202</sup> *Ibid.* Specifically, see “Analyzing Reflective Texts (ART)”, online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/art>>.

<sup>203</sup> “Pattern Language”, *supra* note 165. Specifically, see “Making Annotated Exemplars (MAE)”, online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/mae>>.

<sup>204</sup> “Pattern Language”, *supra* note 165. Specifically, see “Reflections Around Artefacts (RAA)”, online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/raa>>.

<sup>205</sup> *Ibid.*

<sup>206</sup> “Pattern Language”, *supra* note 165. Specifically, see “Second Order Reflections (SOR)”, online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/sor>>.

<sup>207</sup> “Pattern Language”, *supra* note 165. Specifically, see “Reflective Blogs during Internship (RBI)”, online: <<https://sites.google.com/site/qutdrawproject/pattern-language/patterns/rbi>>.

*Teaching Patterns Organized by Development-based Dimension Dimension of TARL Pedagogic Field (Horizontal Axis)*

The teaching patterns described above could also be described under this heading, organized in accordance with where each is situated on the Development-based Dimension (horizontal axis) of the TARL Model. In the interest of not being repetitive here, please refer to Appendix A for a mapping by Ryan and Ryan that also depicts where each teaching pattern is located across the Development-based Dimension of the TARL Model.

In summary, the ‘multi-dimensional’ approach of the TARL Model, which takes into account the development of higher order levels of thinking as well as the time that is necessary to develop reflective judgment, provides a structured, yet flexible approach to operationalize reflective practice in a lesson-plan or across a course or a program, for the purpose of helping students achieve a metacognitive level of thinking. Next, I analyze how the reflective practice exercises associated with Leering’s model and Casey’s model map onto the TARL Pedagogic Field. I complete this analysis in accordance with the mapping of the overlap among the models that was undertaken in section 2.3 of Chapter 2, based on the Category-based Dimension (vertical axis) of the TARL Model. I build on the analysis from Chapter 2 to, through examining the reflective practice exercises, determine how the components and thus exercises associated with Leering’s and Casey’s models correspond with and map onto the Development-based Dimension (horizontal axis) of the TARL Model. This analysis provides the foundation for a comparison of the three models in section 3.2 and a plan moving forward in section 3.3.

3.1.2 Summary and Mapping of Reflective Methods from Leering’s Working Conceptualization

Leering has developed an extensive ‘mind map’ of methods for reflective practice, informed by a literature review and interviews with Canadian law professors.<sup>208</sup> In a forthcoming article, she introduces how reflective practice could be operationalized as a professional learning theory in legal education, based on the components of her Working Conceptualization (the components of Reflection on Practice; Self-Reflection; Critical Reflection; Integrative or Integrated Reflection; Praxis; and Collective Reflection, as described in Chapter 2). She also introduces how reflective practice could be operationalized by Learning Phases across the three-year timespan of a traditional Canadian law school program. Leering’s proposed reflective methods are summarized

---

<sup>208</sup> Leering, “Conceptualizing Reflective Practice” *supra* note 13 at 106.

below in relation to how I propose they map onto the TARL Pedagogic Field, first by the components of her Working Conceptualization of ‘Integrated Reflective Practice’ as a framework<sup>209</sup> on the Category-based Dimension (vertical axis), followed by her proposed temporally-based ‘Learning Phases’ as a framework<sup>210</sup> on the Development-based Dimension (horizontal axis). As was explained in Chapter 2 and can be seen at Appendix A, Leering’s Working Conceptualization is goal-oriented and so the reflective methods she proposes in reference to the components of the model are mapped across the Category-based Dimension (vertical axis), but not across the Development-based Dimension (horizontal axis). Rather, the Development-based Dimension (horizontal axis) of the TARL Model becomes relevant with the reflective methods she proposes in relation to the temporally-based Learning Phases.

*Reflective Methods Using ‘Integrated Reflective Practice Framework’, Mapped on Category-based Dimension of TARL Pedagogic Field (Vertical Axis)*

Methods for Reflection on Practice (Skills) – Corresponding with TARL Model Levels 1 and 4

In Chapter 2 it was argued that Leering’s component of Reflection on Practice (corresponding with TARL Model Level 1) corresponds with both the first and final levels of the TARL Model. To reflect on practice, she encourages the completion of “self-assessment exercises such as learning style assessments” and “learning contracts or learning plans, a form of personal development planning”.<sup>211</sup> Leering also suggests incorporating systematic reflection on skills such as “legal reasoning, ...research,...writing, oral or written advocacy, or mootings”, as it “builds a strong foundation for lifelong learning because it provides a model for acquiring new skills and knowledge after graduation, while improving the student’s current performance”.<sup>212</sup> One can imagine how such exercises would be helpful at both a preliminary and more sophisticated stage in order to reach the metacognitive, higher order reflective judgment at Level 4 of the TARL Model. The methods for reflection on practice described in this section are labelled ‘LRP’ at Appendix A, mapped onto the Category-based Dimension (vertical axis) of the TARL Pedagogic Field in accordance with the analysis from Chapter 2.

---

<sup>209</sup> Leering, “Integrated Reflective Practice”, *supra* note 1 at 17.

<sup>210</sup> *Ibid* at 31. Note that only the first three of Leering’s five proposed Learning Phases are examined since the final phases involve learning beyond undergraduate legal education.

<sup>211</sup> *Ibid* at 19-21.

<sup>212</sup> *Ibid*.

### Methods for Self-Reflection (Values) – Corresponding with TARL Model Level 2

With respect to building Self-Reflection abilities (corresponding with TARL Model Level 2), Leering cites methods that encourage students' self-reflection on values. For example, students could focus on how “[their] values map onto professional role values”, which, as was identified as a key benefit at section 1.3.1 of Chapter 1, is “a method to encourage self-reflection that aligns naturally with teaching legal professionalism and ethics”.<sup>213</sup> She states that “self-assessment exercises for professional role preferences” is another way to facilitate self-reflection.<sup>214</sup> Australian and British legal scholars' ideas are also referenced by Leering, which encourage self-reflection that has law students contemplate “why they have chosen this professional path, on their strengths and weaknesses, and to consider different roles for legal professionals”.<sup>215</sup> Leering's methods for self-reflection are depicted as ‘LSR’ at Appendix A, again, mapped onto the Category-based Dimension (vertical axis) of the TARL Pedagogic Field in accordance with the analysis from Chapter 2.

### Methods for Critical Reflection (Knowledge) – Corresponding with TARL Model Level 3

Leering states that how courses are taught and the content of the courses can encourage the Working Conceptualization component of Critical Reflection (reflecting on knowledge, corresponding with TARL Model Level 3).<sup>216</sup> In order to build critical reflection abilities, she suggests introducing “socio-legal scholarship”, “legal jurisprudential concepts and questions”, “legal needs studies and other empirical research about the ‘law as lived’”, and “concepts of legal pluralism”.<sup>217</sup> She also notes the invaluable exposure students receive in clinical legal education to “real life situations of injustice”, that can have transformative impacts when paired with “critical theory” and “interrogating the existing paradigms of legal practice”.<sup>218</sup> When students are exposed to clinical legal education or other experiential learning activities, or socio-legal and critical theories, this can result in, as Leering states, an “exposure to disorienting information” that can “lead to ‘transformative learning’”.<sup>219</sup> These methods to encourage critical

---

<sup>213</sup> *Ibid* at 26.

<sup>214</sup> *Ibid* at 24-26.

<sup>215</sup> *Ibid*.

<sup>216</sup> *Ibid* at 23.

<sup>217</sup> *Ibid* at 22.

<sup>218</sup> *Ibid*.

<sup>219</sup> *Ibid* at 20.

reflection are depicted as ‘LCR’ on the Category-based Dimension (vertical axis) of the TARL Pedagogic Field at Appendix A, mapped in accordance with the analysis from Chapter 2.

#### Methods for Integrative or Integrated Reflection – Corresponding with TARL Model Level 4

Leering proposes numerous methods that could lead to Integrative or Integrated Reflection (corresponding with TARL Model Level 4). She suggests that “mulling over a particular practice [that law students] are dissatisfied with may lead to critical reflection on their skill or knowledge base” that could “spark...a need for new knowledge to help improve the practice”.<sup>220</sup> She also suggests that reading critical theory could “lead to interrogating an aspect of something they are doing (practice) or a way of being (self): the integration of reflective insights from critical reflection could lead to a shift in perspective (transformative learning) and a change in practice or values”.<sup>221</sup> Clinical and experiential learning opportunities may present disorienting moments that could also lead to integrated reflection.<sup>222</sup> Leering argues that reflective writing, and specifically, utilizing reflective journals is a key method to encourage integration; that is, “if assignments and reflective questions are carefully crafted, they can become a cogent method for encouraging integrative reflection”.<sup>223</sup> Finally, the integrative benefits of requiring reflective portfolios is also noted.<sup>224</sup> These methods which intend to lead to integrative or integrated reflection are identified on the Category-based Dimension (vertical axis) of the TARL Pedagogic Field as ‘LIR’ at Appendix A.

#### Methods for Praxis – Corresponding with TARL Model Level 4

Finally, with respect to Praxis (corresponding with TARL Model Level 4), Leering states that the methods to teach students how to advance from reflective insights to act on those insights, will be “highly contextual and individual”.<sup>225</sup> Such exercises would, in accordance with the mapping completed in Chapter 2, occur at the top of the Category-based Dimension (vertical axis) of the TARL Pedagogic Field, which can be seen by the label ‘LP’ at Appendix A.

---

<sup>220</sup> *Ibid* at 26-28.

<sup>221</sup> *Ibid*.

<sup>222</sup> *Ibid*.

<sup>223</sup> *Ibid* at 28. See more J A Moon, *Learning journals: A handbook for reflective practice and professional development* (London: Routledge, 2006).

<sup>224</sup> *Ibid* at 26-28.

<sup>225</sup> *Ibid* at 28.



Leering has, in addition to the above reflective methods organized in accordance with the six components of her Working Conceptualization, proposed methods that cross temporal Learning Phases, which are described next in accordance with the Development-based Dimension (horizontal axis) of the TARL Pedagogic Field.

*Reflective Methods Using ‘Learning Phases Framework’, Mapped on Development-based Dimension of TARL Pedagogic Field (Horizontal Axis)*

The above section outlined the reflective methods from Leering’s Working Conceptualization, organized in accordance with how they map onto the the Category-based Dimension (vertical axis) of the TARL Pedagogic Field. This section describes Leering’s examples of reflective methods organized by temporal Learning Phases as a framework, organized in accordance with how they map onto the the Development-based Dimension (horizontal axis) of the TARL Pedagogic Field. Leering’s three phases – Phase 1 (Year 1 of a Canadian law school program); Phase 2 (Experiential Education and Experiential Learning in a law school program); and Phase 3 (Year 2/3 of a Canadian law school program) – have correspondence with the Development-based Dimension (horizontal axis) of the TARL Model, which, as described above, advances with respect to ‘Course Phase’, from (i) Foundation, to (ii) Theory, to (iii) Professional Practice; with respect to ‘Reflective Focus’, from (i) Self/Society, to (ii) Self/Peers/Society, to (iii) Self/Peers/Colleagues/Clients/Society; and with respect to ‘Experience Type’, from Simulated to Real experiences. The manner in which Leering’s reflective methods map onto the Development-based Dimension (horizontal axis) of the TARL Pedagogic Field are described below and can be viewed at Appendix A.

*Methods During Phase 1 (Year 1 of a Canadian law school program) – Corresponding with TARL Model Foundation Phase*

Leering’s Phase 1 (Year 1) of a Canadian law school program, depicted as ‘L-P1’ on the TARL Pedagogic Field at Appendix A, corresponds with the Foundation Phase of the TARL Model because the temporal stages of both models represent the first stage of learning in a program. The reflective methods that could be implemented beginning in Phase 1 (Year 1) of a Canadian law school program, according to Leering, include integration of exercises into Orientation and the curriculum that begins building students’ metacognition. Possible reflective methods in Phase 1 (Year 1) include speakers, shadowing opportunities, service learning, pro bono experience, retreats, field trips, creating a mission statement, meditation and stress reduction techniques,

creating a learning and personal development plan, keeping a learning journal, and more.<sup>226</sup>

Leering's interviews with Canadian law school professors found that the anticipated benefits of integrating reflective methods starting in first-year law school curriculum are unlimited.<sup>227</sup>

Methods During Phase 2 (Experiential Education and Experiential Learning in a law school program) – Corresponding with TARL Model Experience Type Phase

Leering's proposed Phase 2 consists of reflective methods paired with 'Experiential Education and Learning', which map onto the Experience Type spectrum of Simulated to Real on the Development-based Dimension (horizontal axis) of the TARL Pedagogic Field, depicted as 'L-P2' at Appendix A. She states experiential education and learning could include "problem-based and project-based learning, simulations, clinical legal education and externships, volunteer or service learning experiences, mootings, client counselling, other legal skill competitions, summer law student work, part-time legal work or work/study programs, and extra or co-curricular activities".<sup>228</sup> This phase highlights the burgeoning recognition of what experiential education provides for student learning and emphasizes that reflection "plays a crucial but undervalued role in learning from these experiences".<sup>229</sup>

Methods During Phase 3 (Years 2 and 3 of a Canadian law school program) – Corresponding with TARL Model Intermediate and Capstone Phases

Leering's proposed Phase 3, labelled 'L-P3' on the TARL Pedagogic Field at Appendix A covers years two and three of law school. Phase 3 thus corresponds with the Intermediate and Capstone Phases of the Development-based Dimension (horizontal axis) of the TARL Pedagogic Field since these temporal stages of both models represent the middle and final stages of learning in a program. Leering states that at this phase, students have an opportunity to "study specialized legal subjects and to 'deepen and integrate' the knowledge, skills, and values required of legal professionals".<sup>230</sup> Reflective methods at this phase may include "capstone courses or experiences or synthesizing reflective exercise such as developing a reflective learning portfolio".<sup>231</sup> She indicates capstone experiences should be "intentionally designed to promote reflection on, and the integration and synthesis of whole-of-program learning by requiring student demonstration of

---

<sup>226</sup> *Ibid* at 33-34.

<sup>227</sup> *Ibid* at 33.

<sup>228</sup> *Ibid* at 32.

<sup>229</sup> *Ibid* at 35.

<sup>230</sup> *Ibid* at 32.

<sup>231</sup> *Ibid* at 37.

consolidated, integrative and transferable learning”.<sup>232</sup> The portfolio could include an “articulated theory of professional practice”, an “aspirational personalized professional oath”,<sup>233</sup> or a “philosophy of practice”.<sup>234</sup>

#### Methods for Collective Reflection – Corresponding with TARL Model Reflective Focus Phase

The sixth component of Collective Reflection, as stated in Chapter 2, most closely corresponds with the Reflective Focus Phase that is identified on Ryan and Ryan’s Development-based Dimension (on the horizontal axis), depicted as ‘LCOR’ at Appendix A. Arrows extend from the mapping of this component on the Pedagogic Field since Leering suggests collective reflective methods that cross multiple years of law school. Approaches to collective reflection could involve, according to Leering, various methods such as introducing communities of practice in first-year legal writing and upper-year level skills courses, interdisciplinary and multidisciplinary collaborations, and group work.<sup>235</sup> Other methods proposed include collective inquiries such as the “collaborative drafting of a class constitution” in first-year constitutional law and “pedagogical experiments using social innovation technologies, [which] provide creative opportunities for collective reflection”, such as “design thinking courses and ‘innovation labs’”.<sup>236</sup>

As previously stated, Leering’s initial work in operationalizing reflective practice, organized by the components of her Working Conceptualization and temporally using Learning Phases as a framework, provide a helpful starting point. Given that the components of Leering’s Working Conceptualization are not associated with a scale, as was discussed in Chapter 2, the Category-based mapping (on the vertical axis) of the reflective methods at the beginning of section 3.1.2 is subject to interpretation and the relation between Leering’s components and the TARL Model should be studied further. The reflective assignments associated with Casey’s Stages of Reflection more obviously map onto the Category-based Dimension (vertical axis) of the TARL Pedagogic Field, but less obviously map onto the Development-based Dimension (horizontal axis), as will be outlined next.

---

<sup>232</sup> *Ibid.*

<sup>233</sup> *Ibid.*

<sup>234</sup> *Ibid* at 38.

<sup>235</sup> *Ibid* at 28.

<sup>236</sup> *Ibid.*

### 3.1.3 Summary and Mapping of Reflective Assignments from Casey's Stages of Reflection

The description below of reflective assignments from Casey's Stages of Reflection Model follows the mapping that was completed in relation to the Category-based Dimension (vertical axis) of the TARL Pedagogic Field in Chapter 2. As previously mentioned, Casey's Stages of Reflection were created in reference to how reflective assignments could unfold over the duration of one upper-year course, whereas Leering's Learning Phases propose how reflective practice exercises could unfold over the duration of a full program. Ryan and Ryan's TARL Model, however, accommodates the unfolding of reflective practice exercises over both course and program phases on its Development-based Dimension (horizontal axis). In order to map Casey's reflective assignments onto the Pedagogic Field, the assignments are therefore also analyzed below in accordance with where I propose they fit on the Development-based Dimension (horizontal axis) of the Pedagogic Field in terms of course phase. Through analyzing Casey's reflective assignments in relation to how they map on the Development-based Dimension, the flexibility of the TARL Model is evident in that it accommodates reflective practice exercises unfolding over the duration of *either* a course or a full program.

#### *Reflective Assignments Mapped on Category-based Dimension (Vertical Axis) and Development-based Dimension (Horizontal Axis) of TARL Pedagogic*

##### Assignments During Stage 1 (Competence) and Stage 2 (Difference and Choice) – Corresponding with TARL Model Level 1 and Foundation/Simulated Phases

Casey states that a “Stage One reflective assignment [corresponding with TARL Model Level 1] pairs well with a lawyering performance related to legal research”.<sup>237</sup> The student, in being asked to find the answer to a legal research question, could concurrently be asked to reflect on “his level of knowledge in the area, the professional duty to conduct thorough research, the challenges the student faced in performing the assignment, and whether the student met the standard of competence”, in addition to possibly commenting on “steps he would take if he were to receive a similar assignment in the future”.<sup>238</sup> Casey indicates that this reflective practice exercise “helps the student develop an individual professional identity” and their own “‘personal standard’ or rule that governed their behavior”.<sup>239</sup> He argues “[t]he articulation of a personal standard is an important step in the development of professional identity” as this “signifies a shift

---

<sup>237</sup> Casey, *supra* note 5 at 334-338.

<sup>238</sup> *Ibid.*

<sup>239</sup> *Ibid.*

in the locus of authority from the external source – the rules – to an internal source – the student’s own personal standard”.<sup>240</sup> In reflecting, the process elevates the students’ “knowledge [the identification of the ethical rule], skill [the ability to apply the rule] and values [the personal integrity, collaboration, and experience] related to professional identity”, and so even at the first stage, the development of professional identity is apparent.<sup>241</sup>

At Casey’s Stage 2 of Difference and Choice (again, corresponding with TARL Model Level 1), he states the reflection “should be matched with a task where the experience of performing the assignment will demonstrate to the student that there is more than one way to accomplish the assignment successfully”.<sup>242</sup> He asserts that a Stage 2 reflection can be achieved through a mock client interview, since it illustrates to students that there are different ways to complete an interview, and therefore multiple ways to complete the assignment effectively.<sup>243</sup>

As can be noted at ‘C1’ and ‘C2’ on the TARL Pedagogic Field at Appendix A, Stages 1 (Competence) and 2 (Difference and Choice) map, as was discussed in Chapter 2, with Level 1 of the Category-based Dimension (vertical axis) of the TARL Model and, based on the assignments described above, the Foundation/Simulated Phases of the Development-based Dimension (horizontal axis) of the TARL Model. The tasks described above map onto the Foundation/Simulated Phases of the Development-based Dimension because Stage 1 involves a ‘foundational’ task related to legal research and Stage 2 involves a mock client interview, that is, as stated on the ‘Experience Type’ phase of the TARL Model, a ‘simulation’.

#### Assignments During Stage 3 (Internal Context) – Corresponding with TARL Model Level 2 and Experience Type Phase

During Casey’s third stage of Internal Context’ (corresponding with TARL Model Level 2), a negotiation exercise is the assignment used to prompt reflection.<sup>244</sup> A negotiation exercise paired with a reflective assignment, in reference to ‘Experience Type’ on the Development-based Dimension (horizontal axis) of the TARL Model, represents a more advanced simulation and so has been mapped on the mid-range of the Development-based Dimension of the TARL Pedagogic Field, labelled as ‘C3’ at Appendix A.

---

<sup>240</sup> *Ibid.*

<sup>241</sup> *Ibid* at 338.

<sup>242</sup> *Ibid* at 338-339.

<sup>243</sup> *Ibid* at 334-339.

<sup>244</sup> *Ibid* at 340.

Assignments During Stage 4 (External Context) and Stage 5 (Societal Context) –  
Corresponding with TARL Model Level 3 and Intermediate and Professional  
practice/Capstone Phases

At Stage 4, External Context (corresponding with TARL Model Level 3), Casey states students should reflect on interactive lawyering tasks. At this stage, he argues that the task should “require the student to interact with another person” rather than focus on less dynamic, individualized research or writing activities.<sup>245</sup> Ideal exercises to pair with a reflective assignment at this stage would therefore include “client interviews, counselling sessions, negotiations, mediations, and oral arguments”.<sup>246</sup> Since the exercises that are favoured at this stage are interactive lawyering tasks which are advanced but not yet real, it is mapped at the Intermediate Phase of the Development-based Dimension (horizontal axis) on the TARL Pedagogic Field, labelled ‘C4’ at Appendix A.

The Stage 5 level of Societal Context (corresponding with TARL Model Level 3) favors live-client experiences. At this stage, students must be “able to move from a concrete example to an abstract principle” and “think beyond absolute terms to contextual solutions”.<sup>247</sup> Here, the objective is that students’ prior experiences are challenged and that reflective skills will help students to elicit meaning from the experience.<sup>248</sup> Furthermore, at this stage “the deeper capacity for cognitive and moral reasoning will assist the student in exercising professional judgment...”.<sup>249</sup> This assignment has been mapped as ‘C5’ at Appendix A in the last quadrant of the Development-based Dimension (horizontal axis) of the TARL Pedagogic Field since the live-client aspect of the exercise corresponds with the Professional practice/Capstone ‘Course Phase’, contextual thinking in terms of ‘Reflective Focus’, and is real as opposed to a simulated ‘Experience Type’.

---

<sup>245</sup> *Ibid* at 344.

<sup>246</sup> *Ibid.*

<sup>247</sup> *Ibid* at 346.

<sup>248</sup> *Ibid* at 340.

<sup>249</sup> *Ibid* at 346.

Assignments During Stage 6 (Metacognition) – Corresponding with TARL Model Level 4 and Professional practice/Capstone Phase

Finally, Casey states that reflective writing should occur at the Metacognitive stage (corresponding with TARL Model Level 4) through journals or other writing assignments, as they “offer a chance to separate ‘action’ from the ‘reflection’”.<sup>250</sup> At Appendix A, this reflective assignment, labelled ‘C6’ on the TARL Pedagogic Field, appears at Level 4 of the Category-based Dimension (on the vertical axis, of which mapping was reasoned in Chapter 2), and at the Professional practice/Capstone stage of the Development-based Dimension (horizontal axis). The exercise appears at the Professional practice/Capstone Phase because the intent of the writing is, simply put, to have both an inward and outward reflective focus in order to develop metacognition. Relatedly, the ‘Reflective Blogs During Internship’ teaching pattern of the TARL Model also appears in this quadrant, as stated above.

*Reflective Assignments Mapped on Development-based Dimension (Horizontal Axis) of TARL Pedagogic Field*

Again, Casey operationalizes the Stages of Reflection over the period of one course, but not over the duration of a program or years of study. As identified in Chapter 2, Casey’s model was developed with upper-year students in clinical legal education and externship placements in mind. As a result, the reflective assignments associated with Casey’s model were mapped in accordance with the Category-based Dimension (vertical axis) analysis from Chapter 2, and Development-based Dimension (horizontal axis) analysis in the above section. Further research would be helpful to understand how Casey’s model could inform the development of reflective exercises beyond one course to apply across a law school program.

In sum, the reflective practice exercises associated with the three models provide a helpful contribution towards operationalizing reflective practice in legal education: Ryan and Ryan’s TARL Model provides numerous teaching patterns that can be integrated in a course and/or program; Leering’s work proposes reflective methods in relation to components of her Working Conceptualization and temporally in relation to Learning Phases; and Casey proposes reflective assignments based on Stages of Reflection within an upper-year class. Leering’s and Casey’s reflective practice exercises, as described above, have been mapped and superimposed onto the TARL Pedagogic Field at Appendix A alongside the already-fixed TARL teaching

---

<sup>250</sup> *Ibid* at 348.

patterns, so that in line with the pragmatic and utilization-focused approach of this thesis, legal educators can ‘pick up and run’ with the reflective teaching methods and exercises that meet the learning objectives/outcomes they are trying to encourage. The process of summarizing and mapping the reflective practice exercises associated with each model also uncovered three key areas for further consideration and research, which is addressed next

### **3.2 Recommendations for Further Consideration and Research Among Three Models’ Reflective Practice Exercises**

This section identifies three recommendations for further consideration and research among the three models’ reflective practice exercises. First, the implementation of the reflective practice exercises associated with each of the models requires further research. For example, while the TARL teaching patterns are currently the most comprehensive and flexible of the three models’ proposed reflective practice exercises, a current limitation of the operationalization associated with the TARL Model is that, based on my review of the literature, so far there appears to be few scholarly articles written on the implementation of such teaching patterns in the context of legal education. Also, I agree with Leering’s and Casey’s assertions that their work serves as starting points (and I will add helpful starting points) to imagine a pedagogy of reflective practice in legal education, while still requiring further research. As was detailed above, Leering uses the Working Conceptualization as a heuristic framework to provide “practical examples of reflective activities or methods”, with the caution that implementation of the examples need to be informed by further research and dialogue among law faculties.<sup>251</sup> Thus, the field would benefit from Leering’s proposed reflective methods being accompanied by approaches to teaching and assessing said methods (with the exception of some insight provided on self-assessment<sup>252</sup>). The same is true with the reflective assignments associated with Casey’s Stages of Reflection in that further writing on Casey’s approaches to teaching and assessing the assignments would be helpful. Further writing on how Leering’s and Casey’s reflective practice exercises can be taught and assessed is important since, as will be identified in Chapters 4 and 5, clear expectations and a shared language between legal educators and students about the learning objectives/outcomes and assessment associated with reflective practice exercises are important

---

<sup>251</sup> Leering, “Integrated Reflective Practice”, *supra* note 1 at 17.

<sup>252</sup> *Ibid* at 26.



from the onset.<sup>253</sup> Thus, further research on the utility of TARL Model teaching patterns in law, and on how Leering's and Casey's proposed reflective practice exercises can be taught and assessed would help to advance the literature on this topic. The next two paragraphs provide further recommendations for consideration and research regarding reflective exercises as they relate to the Development-based Dimension (horizontal axis) of the TARL Model, Leering's Learning Phases, and Casey's model.

Second, I agree with Leering's and Casey's assertions that the incorporation of reflective practice exercises in the first year of law is essential, and specifically early on during the first term.<sup>254</sup> Casey's work could therefore be strengthened by further research on how and what reflective assignments could be integrated to foster reflection during the first year of law school.<sup>255</sup> Arguably, it is in the first few weeks of law school that legal educators should aim for students to reach the metacognitive stage of reflecting on their professional identities and values and students should, on a continuing basis, track the growth of their thinking and learning in these areas throughout law school. The reflective process is not linear, but rather, is a cyclical and ongoing process. I therefore agree with Leering's assertion that cycles of reflection need to be completed by students on an ongoing basis through various exercises in order to build the reflective muscle and reach metacognitive levels of thinking.<sup>256</sup> A metaphor can be used, likening the growth of metacognitive and integrated reflective judgment skills to riding a bike in that it is the practicing of the process that makes the learning 'internalized'. Just as one needs repetition to learn how to pedal, balance, and stop a bike all at once, a student requires practicing and internalizing time after time to develop integrated reflective judgment skills and higher-order metacognitive abilities.<sup>257</sup> While attaining higher-order, metacognitive skills may take the shape and form of Casey's proposed staged approach, different students have different learning styles, and so this lends further support for integrating a variety of reflective practice exercises and associated teaching strategies at different stages of law courses and the law school program,

---

<sup>253</sup> Ryan & Ryan, *supra* note 77 at 10.

<sup>254</sup> See e.g. Field et al, *supra* note 8 at 3.

<sup>255</sup> Casey, *supra* note 5 at 350.

<sup>256</sup> Leering, "Integrated Reflective Practice", *supra* note 1 at 26.

<sup>257</sup> Thank you to Carolyn Hoessler, Educational Development Specialist at the Gwenna Moss Centre for Teaching and Learning at the University of Saskatchewan for this analogy and discussion on this point.

starting as soon as possible in first year. Given that Canadian law schools traditionally have standardized first-year curriculum, this presents a unique opportunity to teach and assess reflective practice skills that will build students' reflective muscles. Reflective practice exercises could be incorporated into first-year tutorials, legal research and writing courses, during a Dispute Resolution Block Week, and into every class, including, to help students develop the intercultural fluency that was described in Chapter 1, into a first-year Indigenous Justice course. Reflective questions could also be included in all assignments and exams, starting in the first year of law (the Foundation Phase of Development-based Dimension [horizontal axis] of the TARL Model). Another opportunity for reflective practice starting in first year could be to add degree requirements of mandatory public interest service, with accompanying reflective practice exercises. With respect to the second and third years of the Canadian law school program (the Intermediate and Capstone stages of the Development-based Dimension [horizontal axis] of the TARL Model), the compulsory upper-year Ethics and Professionalism course presents a unique opportunity to integrate reflective practice exercises to ensure that each student has an opportunity to build a reflective muscle, which could, as stated in Chapter 1, help to foster the development of ethical conduct. Another example of incorporating reflective practice into a large, upper-year course is integrating a court report assignment into an Evidence class, which is further described in Chapter 5.<sup>258</sup> A number of law scholars support that in the final year, law students "should be encouraged to reflect on professional identity and what has been learned throughout the law degree".<sup>259</sup> I agree with these scholars, including Leering's suggestion that students prepare an e-portfolio throughout law school, and do an inventory at the end of law school, based on previous reflective learning projects, including identifying a "philosophy of practice".<sup>260</sup>

A third observation is that while experiential learning and education can be a unique teaching and learning style, Leering's separation of it as a stand-alone phase could perhaps, with time and careful analysis, be integrated across the years of law school (her proposed Phases 1

---

<sup>258</sup> Burton, "Court Report", *supra* note 57.

<sup>259</sup> Leering, "Integrated Reflective Practice", *supra* note 1.

<sup>260</sup> *Ibid.* See Bernice McCarthy, *Teaching Around the 4MAT Cycle: Designing Instruction for Diverse Learners With Diverse Learning Styles* (Wauconda, IL: About Learning, Inc, 2006) for more on incorporating experiential learning into learning cycles.

and 3). Leering's Phase 2/Experiential Learning and Education could be integrated in the form of simulated exercises or real exercises throughout a course or program, starting in first year. The reflective methods associated with the phase could, with further research and development of the methods, be organized on the Development-based Dimension (horizontal axis) of the TARL Model, with students being exposed to simulated exercises before participating in real experiences, either in a course or stage of the law school program (see Figure 3-1, above).

As Leering concluded, a clear set of learning outcomes in Canada could assist in identifying what reflective method may be most helpful at certain points of law students' development. Section 3.3, below, sets out potential graduate attributes and learning objectives/outcomes in line with the benefits of reflective practice that were outlined in Chapter 1; teaching methods informed by the Working Operationalization outlined in this chapter; and performance indicators that could be adapted and used in a scoring rubric, which topic is further discussed in Chapters 4 and 5.

### **3.3 A Plan Moving Forward: A Working Operationalization of Reflective Practice In Legal Education**

This section returns to where this paper began in Chapter 1: to identify graduate attributes, learning objectives/outcomes, and performance indicators that could aid students in reaching the metacognitive stage of reflective practice and developing reflective capacities to become critical and creative lifelong learners and agents for change. It involves merging practical implementation of teaching methods and reflective practice exercises, as were outlined above in this Chapter, with some proposed ideals for student development that were identified in Chapter 1 and are represented below as graduate attributes and learning objectives/outcomes, and are then translated into performance indicators. This list of graduate attributes, learning objectives/outcomes, and performance indicators represent, alongside the Pedagogic Field at Appendix A, a Working Operationalization of reflective practice in legal education. Tracking these reflective practice-related graduate attributes, learning objectives/outcomes, and indicators would allow greater certainty that students are progressing and building a reflective muscle throughout the course of their studies. The framework of questions at this stage of designing the teaching and assessment approach for a reflective practice exercise include:

- What general outcome are you seeking?
- How will you help students learn it? (in class or out of class)

How would you know it (the outcome) if you saw it? (What will the student know or be able to do?)<sup>261</sup>

**Table 3-1.** Sample Ideas For Graduate Attributes and Learning Objectives/Outcomes, Reflective Teaching Methods and Exercises, and Performance Indicators to Inform a Working Operationalization of Reflective Practice In Legal Education

<p><i>What general outcome are you seeking?</i></p> <p><b>SAMPLE GRADUATE ATTRIBUTES AND LEARNING OBJECTIVES/ OUTCOMES</b></p>	<p><i>How will you help students learn it? (in class or out of class)</i></p> <p><b>SAMPLE REFLECTIVE TEACHING METHODS AND EXERCISES</b></p>	<p><i>How would you know it (the outcome) if you saw it? (What will the student know or be able to do?)</i></p> <p><b>SAMPLE PERFORMANCE INDICATORS</b></p>
<p><b>Development of reflective judgment as a way to foster ethical conduct</b></p> <ul style="list-style-type: none"> <li>- To demonstrate an ability to confront implicit bias</li> <li>- To exhibit self-directed and self-regulating skills</li> </ul>	<p>E.g. Completion of self development framework, problem-solving in a variety of contexts with exposure to ethical frameworks</p>	<ul style="list-style-type: none"> <li>- Reflection demonstrates ability for refined, ethical judgment</li> <li>- Reflection demonstrates habit and imagination to question first instincts and identify assumptions</li> </ul>
<p><b>Development of reflective judgment as a way to foster intercultural fluency through self and other-awareness</b></p> <ul style="list-style-type: none"> <li>- To gain a greater understanding of intercultural competencies</li> <li>- To identify how the ‘legal language’ can negatively impact lawyers’ interactions with the public they serve</li> <li>- To describe the diversity of the public and its evolving needs</li> <li>- To critically analyze where power and privilege is located</li> </ul>	<p>E.g. Examination of critical pedagogy to learn where power and privilege is located in the justice system, with reflective journal or blog</p> <p>E.g. Complete a project as part of an interdisciplinary team, and complete peer-to-peer reflective practice throughout it reflecting on vet language of law</p>	<ul style="list-style-type: none"> <li>- Reflection demonstrates humility and ability to critically think and reflect on how the 'language of law' is powerful and as a result can be problematic</li> <li>- Reflection demonstrates knowledge of empirical research and legal needs assessments</li> </ul>

<sup>261</sup> Trudy W Banta & Catherine A Palomba, *Assessment essentials: Planning, implementing, and improving assessment in higher education*, 2nd ed (San Francisco: Jossey-Bass, 2015) at 73.

<p><b>Development of reflective judgment as a way to foster metacognitive thinking skills</b></p>	<p>E.g. See reflective assignments from Casey’s model, above, and test and build on such assignments from Casey’s model</p>	<p>- Reflection demonstrates progression of insight on one’s learning process and thinking throughout a term or duration of a program</p>
<p><b>Development of reflective judgment as a way to foster skills training</b></p>	<p>E.g. See reflective methods from the “Reflection on Practice” part of Leering’s model, above, and test and build on such methods from Leering’s model</p>	<p>- Reflection demonstrates progression of skills development throughout a term or duration of a program</p>
<p><b>Development of reflective judgment as a way to foster transformative learning and change agent skills</b></p> <ul style="list-style-type: none"> <li>- To identify and help improve systemic barriers to legal information and services, and justice</li> <li>- To have developed an understanding of how technology and the business of law can help or hinder justice</li> <li>- To describe emotional, creative, and innovative intelligence in relation to how the concepts relate to law practice</li> <li>- To identify mindfulness and positive mental health strategies</li> <li>- To analyze how reflective practice tools enable lifelong learning and law reform/change agent skills</li> </ul>	<p>E.g. Clinical or other experiential education and learning opportunities (that foster ‘disorienting moments’), and study of needs assessments<sup>262</sup></p> <p>E.g. Law reform assignment</p>	<p>- Reflection demonstrates ability to identify an issue, the needs and interests of stakeholders, pathways to implementation, and ways to measure success of an innovation</p>

This Chapter summarized the reflective practice exercises associated with each of the models that were introduced in Chapter 2, and mapped the exercises in accordance with the dimensions of the TARL Model’s Pedagogic Field, for the purpose of starting to operationalize reflective practice in legal education. The analysis of each of the models’ reflective practice

---

<sup>262</sup> Leering, “Integrated Reflective Practice”, *supra* note 1 at 22.

exercises in relation to where they map onto the TARL Pedagogic Field was helpful. Leering's focus on the spiraling of becoming an integrated reflective practitioner through engaging in a variety of reflective methods for different goals in line with her components and at different phases of the law school program addresses the cyclical nature that she states is necessary to become an integrated reflective practitioner. The reflective assignments associated with Casey's Stages of Reflection, on the other hand, are a helpful guide on how metacognitive thinking skills may be strengthened through reflective practice exercises. The TARL Pedagogic Field provides a helpful, three-dimensional tool for legal educators to choose teaching patterns that correspond with both phases in a course or program, and/or levels of higher-order, metacognitive thinking skills. This Chapter also proposed some recommendations for further research and consideration in relation to the reflective practice exercises associated with the three models. Finally, this Chapter identified a plan moving forward regarding aligning learning objectives/outcomes with reflective practice exercises, which can inform the design of performance indicators that can be used in scoring rubrics. Chapters 4 and 5 move into the "Now What?" assessment related questions. Specifically, the next Chapter looks at "How would you measure...the desired behaviors?"<sup>263</sup>

---

<sup>263</sup> Banta & Palomba, *supra* note 261 at 73.

## **CHAPTER 4: Principles, Concerns, and Considerations Associated with Assessing Reflective Practice in Legal Education**

This Chapter and Chapter 5 also shift from discussing the reflective questions of “What?” and “So What?” that were answered in Chapter 1, to address the second aspect of “Now What?”, the understudied topic of assessing reflective practice in legal education. Section 4.1 addresses the purpose and principles involved with assessing reflective practice. Section 4.2 outlines concerns that may arise among students and legal educators in the assessment of reflective exercises. Finally, section 4.3 provides a Working List of Considerations to assess reflective practice in legal education, based on ‘best practices’ from the literature.

### **4.1 Summary of Key Principles of Assessment**

As identified in Chapter 1, the purpose of focusing on assessment is that it can aid learning: “...[A]ssessment is a key component to aiding learning, in part as a measuring point in the educational continuum and partly to provide feedback on how improvement can be made”.<sup>264</sup> Legal educators are obviously pivotal in guiding student learning, and identifying the extent to which learning has taken place. With respect to developing the learning objectives/outcomes of a course, Ken Bain suggests to “begin with the goals in mind (reverse engineering)” and “question what the learning outcomes are, and design research questions and activities with that in mind”.<sup>265</sup> So, for example, if the goal and learning objective/outcome is to encourage critical reflection, a legal educator may turn to the Working Operationalization from Chapter 3, and specifically Leering’s critical reflection methods from Chapter 3; and the Working List of Considerations in section 4.3 below for guidance on how to align the learning objectives/outcomes, teaching method for the reflective practice exercise, and associated assessment, since “[t]he learning objectives shape the nature of both instruction and assessment”.<sup>266</sup> This Chapter builds off of the seemingly simple, longstanding principle that “[a]ligning learning outcomes, teaching, and assessment is considered ‘best practice’”.<sup>267</sup> The

---

<sup>264</sup> Grimes & Gibbons, *supra* note 60 at 135.

<sup>265</sup> K Bain, *What the best college teachers do* (Cambridge, MA: Harvard University Press, 2004).

<sup>266</sup> *Ibid* at 162. See also John Biggs & Catherine Tang, *Teaching for Quality Learning at University: 4th Edition* (New York, NY: McGraw Hill, 2011) at 191.

<sup>267</sup> Kelley Burton, “A Criterion-Referenced Assessment Rubric on Reflective Practice Designed for a Clinical Legal Education Context” (2015) 8:1-2 *Australasian Law Teachers Association* 3 [Burton, “A Criterion-Referenced Assessment Rubric”] at 3-4. See generally

key components of effective assessment in general inform the more specific design of assessment of reflective practice exercises. These key components include *validity*, *reliability*, and *fairness*:

Validity means that an assessment tool must accomplish the purpose for which it was intended. Reliability means the test or measuring procedure yields the same results on repeated trials. [For example, a] single do-or-die final essay exam given under time pressure at the end of the semester fails all three criteria. It is neither valid, nor reliable, nor fair.<sup>268</sup>

Thus, the principles of aligning learning objectives/outcomes with teaching methods and assessment, and taking into account validity, reliability, and fairness in assessment design, form the basis for this Chapter. Following these best practices, however, may be at odds with the 100% “single do-or-die final essay exam” that Roy Stuckey critiques above as “neither valid, nor reliable, nor fair”, which some legal educators are still heavily invested in. Indeed, there could be significant institutional barriers to introducing assessed reflective practice as a key teaching and learning strategy in legal education (despite it, as stated in Chapter 1, being identified as a graduate attribute and priority in many law school and postsecondary education aspirational documents).

As was introduced in Chapter 1, little attention has been paid to the assessment of reflective practice exercises in legal education.<sup>269</sup> More empirical and action oriented research simply needs to be undertaken to test and develop best practices to assess reflective practice exercises in law. This Chapter carries on the pragmatic, utilization-focused research approach to the thesis that was outlined in Chapter 1, to serve as a starting point for educators to consider how reflective practice exercises in legal education can be assessed. While there are some legitimate concerns and considerations surrounding the assessment of reflective practice, there are many benefits to developing reflective judgment and a practice, as was argued in Chapter 1, and assessment can aid in such development, as this Chapter recommends. Thus, this Chapter starts with a summary of some of the legitimate concerns and considerations identified in the

---

Trudy W Banta, Elizabeth A Jones, & Karen E Black, *Designing Effective Assessment: Principles and Profiles of Good Practice* (San Francisco: Jossey-Bass, 2009) and Marilee J Bresciani, *Outcomes-Based Academic and Co-Curricular Program Review* (Sterling, VA: Stylus Publishing, LLC, 2006).

<sup>268</sup> Stuckey, *supra* note 16 at 49 [emphasis added; citations omitted].

<sup>269</sup> Leering, “Encouraging Reflective Practice”, *supra* note 3 at 76 and 79.



literature, making the argument that despite the concerns, reflective judgment can and should be assessed – and that taking into account the outlined considerations will make for more *valid*, *reliable*, and *fair* assessment of reflective practice exercises.

#### **4.2 Concerns Involving Students and Legal Educators in Assessing Reflective Practice Exercises**

Before identifying best practices for assessing reflective judgment, there are threshold concerns and considerations to take into account regarding the students and legal educators who are implicated by and involved with the assessment of reflective practice exercises in legal education. Despite the well-established principle that learning objectives/outcomes should align with one's approach to teaching and assessment, there is literature that opposes the assessment of reflective practice exercises altogether. There is a lack of writing on the pros and cons of assessing reflective judgment in Canadian law schools, but such commentary exists as it relates to legal education in Australia and the United Kingdom. For example, a literature review in Australia established that despite there being a lack of direction on how reflective practice exercises should be assessed, what is generally agreed upon is that such exercises need to be assessed for students to view them as important:

There is general agreement in the literature that reflective practice should be assessed, however there is little agreement as to how assessment should be undertaken. There is also the general view that students only value work that is assessed, therefore if reflective activities are not assessed students will view them as less important.<sup>270</sup>

Contrastingly, there is literature outside of law which focuses on the disadvantages and concerns associated with assessing reflective exercises.<sup>271</sup> These concerns are summarized in the next two sections as considerations involving (4.2.1) students and (4.2.2) legal educators, which legal educators should take into account when assessing reflective judgment. The arguments against assessing reflective practice exercises are informative, as addressing these concerns could impact the learning environment and thus strengthen the validity, reliability, and fairness of assessing such exercises.

---

<sup>270</sup> McNamara, Cockburn & Campell, *supra* note 4 at 9 [footnotes omitted].

<sup>271</sup> See e.g. Kelley S Terry, "Embedding Assessment Principles in Externships" (2014) 20 Clin L Rev 467 at 491.

#### 4.2.1 Concerns Involving Students Completing and Being Assessed On Reflective Practice Exercises

The students and associated learning environment should be considered in the design and assessment of reflective practice exercises, in order to try to increase the validity, reliability and fairness of the evaluation. A key concern is addressing issues that may arise concerning student engagement with the method. A lack of ‘buy-in’ may be due in part to, for example, the student’s type of learning style and background.

The first concern is the student who has a ‘strategic’ learning style. Students who fall under the category of ‘strategic learner’ may lack authenticity in their engagement with reflective exercises. These learners are defined as being “interested in making the high grades but seldom willing to grapple deeply enough to change their own perceptions”.<sup>272</sup> As a result, a strategic learner would try to craft a reflective account in relation to the proposed marking standards in order to get a good grade, which some theorists criticize as diminishing the validity of the exercise.<sup>273</sup> Thus, compulsory and assessed reflective exercises may impact the validity, reliability, and fairness of assignment. Related empirical research in this regard would be helpful.

Second, students’ backgrounds may also impact their level of engagement in completing reflective exercises and thus the validity of the assessment. Student engagement in reflective exercises may be impacted by students’ perception of the value of reflection itself, which may be seen as “too ‘touchy-feely’ because it does not impart substantive knowledge”.<sup>274</sup> Students’ degree of engagement with assessed reflective writing exercises may be related to their individual backgrounds and lenses.<sup>275</sup> For example, a student in a study by Jenny Gibbons commented that the reflective practice exercise “was yet another example of ‘Western socio-cultural waffle’” and “just another bland recipe that we have to follow”.<sup>276</sup> Student diversity should therefore also be further studied in relation to levels of engagement with this type of learning, so that it can be taken into account in the design and assessment of reflective exercises.

---

<sup>272</sup> Bain, *supra* note 265 at 40.

<sup>273</sup> V Hobbs, “Faking It or Hating It: Can Reflective Practice Be Forced?” (2007) 8:3 *Reflective International and Multidisciplinary Perspectives* 405 at 406 and 410-411; Jenny Gibbons, “Oh the Irony! A Reflective Report on the Assessment of Reflective Reports on a LLB Programme” (2015) 49:2 *The Law Teacher* 176 at 181.

<sup>274</sup> Casey, *supra* note 5 at 320.

<sup>275</sup> Gibbons, *supra* note 273 at 181.

<sup>276</sup> *Ibid.*

One clear way to address students' lack of engagement is through direct instructions both verbally and through a scoring rubric, which set out the learning objectives/outcomes and benefits of developing reflective judgment, and through marking criterion and expectations in advance of students completing a reflective practice exercise. Such practical ways to address students' lack of engagement will be further described below and in Chapter 5.

#### 4.2.2 Concerns Involving Legal Educators Designing and Completing the Assessment of Reflective Practice Exercises

The degree of objectivity and consistency the legal educator brings to evaluating reflective practice exercises should also be considered.<sup>277</sup> A lack of objectivity or consistency may occur, for example, where there are high expectations by an assessor who becomes disappointed in what is perceived as a lack of effort that a student puts into a reflective practice exercise.<sup>278</sup> The literature proposes designing objective criteria<sup>279</sup> and explaining the criteria to students in order to keep, for example, high expectations in check and to curb concerns that legal educators are “policing’ students’ beliefs”.<sup>280</sup> Ongoing marker training and development is key to address the legitimate concern of marker objectivity.<sup>281</sup> Law has been, as was stated in Chapter 1, self-criticized for having a “hidden curriculum”,<sup>282</sup> and ongoing reflective practice among legal educators could help to alleviate this concern. The use of criteria and clearly considering, as was discussed above in section 4.1, how learning objectives/outcomes; teaching methods; and assessment align, can help to increase the objectivity and consistency of marking reflective practice exercises. Furthermore, through a review of the literature, the following list of best practice considerations has been created.<sup>283</sup> While the considerations identified are not an exhaustive list, they serve as a point of departure for legal educators to take a deliberate, yet

---

<sup>277</sup> Burton & McNamara, *supra* note 77 at 180.

<sup>278</sup> Casey, *supra* note 5 at 320.

<sup>279</sup> Burton & McNamara, *supra* note 77 at 180.

<sup>280</sup> J Hargreaves, “So How Do You Feel about That? Assessing Reflective Practice” (2004) 24:3 Nurse Education Today 196 at 199.

<sup>281</sup> Gibbons proposes “ongoing marker training and development” in this regard: Gibbons, *supra* note 273 at 176.

<sup>282</sup> LeBaron & Patera, *supra* note 74 at 52 and Leering, “Encouraging Reflective Practice”, *supra* note 3 at 73.

<sup>283</sup> The Working List of Considerations in this section both summarize and build off of the initial work of Burton and McNamara, in which they examine fundamental issues involved with assessing reflective practice. See generally Burton, “A Criterion-Referenced Assessment Rubric”, *supra* note 267 and Burton & McNamara, *supra* note 77.

customizable approach to assessing reflective work.

### **4.3 A Plan Moving Forward: A Working List of Considerations to Assess Reflective Practice In Legal Education**

The Working List of Considerations for assessing reflective practice include deciding (4.3.1) what is being assessed with respect to the temporal stage of reflective practice (reflection *for*, *in*, or *on* action); (4.3.2) why the exercise is being assessed and what the proposed learning objectives/outcomes are (the learning *process* versus *product*); (4.3.3) what teaching method and reflective practice exercise is to be used that aligns with the learning objectives/outcomes and assessment (written, oral, or other); (4.3.4) what rubric or marking scheme is to be used, and what the marking criterion are (criterion versus normative versus incremental based); (4.3.5) temporal considerations regarding the placement and duration of assessing reflective practice exercises, such as when and how often exercises should be assessed (formative, summative, or both); and (4.3.6) who should complete the assessment (collective, faculty, peer-to-peer, or self-assessment). Clarity around the desired learning objectives/outcomes associated with the reflective practice exercise will assist in choosing an appropriate teaching method and reflective practice exercise and approach to assessment.

#### 4.3.1 What is temporally being assessed (reflection *for*, *in*, or *on* action)?

This section describes the temporal stages of when reflective judgment could be assessed, based on the chosen learning objectives/outcomes and teaching method. Schön suggested two temporal opportunities for the development of reflective practice skills: “reflection-in-action (thinking while doing) and reflection-on-action (after the event thinking)”.<sup>284</sup> Kelley Burton identifies a third stage, ‘reflection-for-action’.<sup>285</sup> Thus, three potential stages of reflective judgment that could be assessed include, in chronological order: (i) reflection-for-action; (ii) reflection-in-action; and (iii) reflection-on-action.<sup>286</sup> First, reflection-for-action occurs prior to the other two types of reflection and could involve, as Burton suggests, a dialogue between a clinical legal educator and a clinical law student about a case in advance of the student completing a follow-up telephone call with a client.<sup>287</sup> Second, reflection-in-action involves a close “proximity between

---

<sup>284</sup> Linda Finlay, “Reflecting on ‘Reflective practice’” (2008) 52 PBPL 1 at 3, referring to Schön, *The Reflective Practitioner*, *supra* note 36.

<sup>285</sup> Burton, “A Criterion-Referenced Assessment Rubric”, *supra* note 267 at 8.

<sup>286</sup> *Ibid.*

<sup>287</sup> *Ibid.*

the reflective practice and action”.<sup>288</sup> The example Burton provides involves a conversation between a legal educator and a student in a clinical law setting, “immediately after a law student has interviewed a client, but before the law student observes a local legal practitioner providing advice on the real legal problem”.<sup>289</sup> Finally, reflection-on-action “requires the reflective practice to occur after the action”.<sup>290</sup> An example of reflection-on-action could involve a student writing a reflective journal entry following an incident in a clinic setting.<sup>291</sup> Thus, legal educators should consider whether the objective of the assignment is to evaluate how the student is reflecting *for*, *in*, or *on* action. The conceptions of reflecting for, in, or on action, Burton asserts, “provide guidance to...law teachers on when to integrate reflective practice in assessment tasks”.<sup>292</sup>

#### 4.3.2 Why is the exercise being assessed (for the learning *process* or the learning *outcome/product* of the reflection)?

Another consideration is whether the learning process or the outcome/product of the reflection is to be assessed – that is, is the objective to assess the *process* of the reflective learning, the *outcome/product* of the reflective exercise, or *both* the process and the outcome/product? Setting out clear criteria as to whether the learning process or outcome/product of the reflective practice exercise is being assessed could help to alleviate the tendencies of the ‘strategic’ learner, a concern described above in section 4.2.1.<sup>293</sup> Clear communication that the learning process is being assessed as opposed to the product of the reflective practice exercise is essential since it can encourage strategic learners to engage more deeply in developing the skill of reflective judgment. Jennifer Moon provides emphasizes the importance of being clear about whether the process and/or outcome/product of learning is being assessed in the context of reflective writing:

It is important to be clear whether learners are being asked to use reflective writing as a means of generating knowledge (developing a ‘product’ of learning) or in order to learn the skill of being reflective (learning to use the process of reflection or reflective practice). In many cases, both process and product are important. The emphasis (process [and/]or product) of the learning will need to be represented in

---

<sup>288</sup> *Ibid.*

<sup>289</sup> *Ibid.*

<sup>290</sup> *Ibid.*

<sup>291</sup> *Ibid.*

<sup>292</sup> *Ibid.*

<sup>293</sup> Burton & McNamara, *supra* note 77 at 180.

the criteria used for any form of assessment task.<sup>294</sup>

Whether the process or product of the reflection is assessed will depend, as Burton and Judith McNamara argue, in the “designated learning outcomes for the reflective task”.<sup>295</sup> They further state, “Where the ability to engage in reflective practice is a desired attribute (as in the case of law students) then it is important to assess the reflective process and not just the outcome”.<sup>296</sup> If students are invited to document their thinking and learning process, this could lead to more authentic reflections and the development of metacognitive skills.

The objectivity of the assessor could also increase through clear articulation of whether the learning process or outcome/product of completing the reflective practice exercise is being assessed. For example, in the case of asking students to self-reflect through a journal entry on the problem-solving process they engaged in during a negotiation simulation, a scoring rubric may indicate a higher percentage of marks devoted to the ability to deeply and critically *practice the reflective process*, as opposed to focusing on *producing a product* that may only draw surface-level conclusions. Clearly articulating, for example, through a scoring rubric and verbal instructions that the objective of the journal entry is for students to practice their self-reflection skills and document the problem-solving process they engaged in during a negotiation simulation, will help both the student and assessor focus more objectively on the same goals and outcomes and assessment criteria associated with the task. Dean Lorne Sossin highlights the importance of process-driven assessment that focuses on the problem-solving process, particularly in the context of experiential education:

...Experiential education suggests not just a different curricular requirement but also a shift in pedagogy and the assessment of law students. Rather than focusing primarily on outcomes in the evaluation of law students (for example, correct answers on an exam), the focus of experiential assessment aspires to achieve a balance between process and outcome — how successfully did a student solve the problem at hand and how well did the student engage in the problem-solving process?<sup>297</sup>

---

<sup>294</sup> Jennifer A Moon, *A Handbook of Reflective and Experiential Learning: Theory and Practice* (New York, NY: Routledge Falmer, 2004) 82 at 137, cited in Burton & McNamara, *supra* note 77.

<sup>295</sup> Burton & McNamara, *supra* note 77 at 179.

<sup>296</sup> *Ibid* [emphasis in original].

<sup>297</sup> Lorne Sossin, “Experience the Future of Legal Education” (2014) 51:4 Alberta L Rev 849 at 854-855 [emphasis added].

Consideration of the weight of evaluating the *learning process* versus the *product* of the reflection should therefore be considered. Adequate attention should be given to teaching and assessing the process of reflection, since, as was identified in Chapter 1, a focus on process could help to improve law students' metacognitive abilities.

4.3.3 What teaching method and reflective practice exercise or combination of methods/exercises would best align with the learning objectives/outcomes and assessment (written, oral, or other)?

Legal educators should also consider what type of teaching method and reflective practice exercise may best align with the intended learning objectives/outcomes, which will in turn inform the approach to assessment. Examples of teaching methods and reflective practice exercises were discussed in Chapter 3 and can be found on the Working Operationalization at Appendix A. The reflective practice model one works from may also impact the type of exercise and therefore the approach to assessment. For example, a written versus an oral reflective practice exercise based on Leering's Working Conceptualization versus Ryan and Ryan's TARL Model may be assessed differently. Building off of the consideration of whether the process or outcome/product is being assessed, Burton states that a variety of reflective practice exercises should be used for assessment purposes, beyond the popularly used reflective journals:

While journals and portfolios are promoted as traditional vehicles for assessing reflection, legal educators should steer away from using written communication as the sole method for demonstrating reflection. The importance of engaging in the process of reflection (rather than on the written product) should be emphasised to students and, accordingly, other methods of reflective assessment should be considered. Such alternative methods of assessment include videos, blogs, oral presentations, discussion forums and mind maps, some of which are not written forms of assessment.<sup>298</sup>

Thus, consideration should be made as to whether the common reflective journal, or another exercise could align with the learning objectives/outcomes and potential approach to assessment.

4.3.4 What rubric or marking scheme could be used, and what are the marking criterion (criterion versus normative versus incremental based)?

There are three types of assessment approaches that have been written about by legal scholars, which can be used to evaluate reflective judgment: criterion-referenced assessment; norm-

---

<sup>298</sup> Burton & McNamara, *supra* note 77 at 180 [emphasis added; citations omitted].

referenced assessment; or an incremental assessment process.<sup>299</sup> Criterion-referenced assessment involves marking student work “against explicit criteria”, in comparison to norm-referenced assessment that involves marking student work “on a bell-curve”.<sup>300</sup> The norm-referenced (or normative) approach is criticized for “creating competitive rather than collaborative law students; decreasing law student motivation; and being unfair to law students”.<sup>301</sup> In general, criterion-referenced assessment is “regarded as best practice in legal education”.<sup>302</sup> Criterion-referenced assessment has become known especially in Australia for its many benefits for evaluating reflective practice. For example, in the context of clinical legal education in Australia, Burton writes about the benefits of criterion-referenced assessment achieving more reliability and fairness, including it being:

...a useful resource for augmenting a shared understanding between clinical law teachers and students on what reflective practice encompasses and how it is assessed (transparency); guiding a dialogue between clinical law teachers and students about reflective practice; demonstrating how students can progress their ability to engage in reflective practice; guiding clinical law teachers on how to make marking judgments on student reflective practice; ensuring greater consistency in marking (reliability); promoting the alignment between learning outcomes and assessment tasks (validity); facilitating feedback, self-assessment and peer-assessment.<sup>303</sup>

Burton, drawing on the work of Stuckey and others, further summarizes three benefits of criterion-referenced assessment, including it encouraging the development of reflective judgment, itself. Three key benefits include “advising law students upfront what is expected of them; reliable marking and encouraging students to engage in reflective practice”.<sup>304</sup>

There are also, however, criticisms of criterion-referenced assessment. While using criteria has been said to minimize unreliability in allocating marks,<sup>305</sup> it is at the same time criticized since, related to the first section of this Chapter, determining and applying ‘objective’

---

<sup>299</sup> Peggy L Maki, *Assessing for Learning: Building a Sustainable Commitment Across the Institution*, 2ed, (Sterling, VA: Stylus Publishing, LLC, 2010) at 218-219.

<sup>300</sup> Burton, “A Criterion-Referenced Assessment Rubric”, *supra* note 267 at 6.

<sup>301</sup> *Ibid.*

<sup>302</sup> *Ibid.*

<sup>303</sup> *Ibid* [emphasis added].

<sup>304</sup> Kelley Burton, “‘Think Like a Lawyer’: Using a Legal Reasoning Grid and Criterion-Referenced Assessment Rubric on IRAC (Issue, Rule, Application, Conclusion)” (2017) 10:2 *Journal of Learning Design* at 64, referencing Stuckey et al, *supra* note 16.

<sup>305</sup> Stuckey et al, *supra* note 16 at 182.



criterion itself can be an equally difficult and subjective task for the educator. The criteria itself may be an issue and thus impact the reliability and fairness of the assessment. Another criticism is that students may receive lower grades with a criterion-referenced approach since they are marked against criteria as opposed to a normative approach, which involves marking students in reference to each other.<sup>306</sup>

In the legal education context, Burton recently proposed an incremental assessment process and rubric, which stands in contrast to the existing normative and criterion-referenced approaches. She proposes an incremental “reflective practice criterion-referenced assessment rubric” based on the shortcomings she documents of her concept rubric and the TARL Model’s four-step rubric.<sup>307</sup> Burton’s incremental approach to evaluation focuses on the *process* of reflective practice and can be applied in various learning environments:

The incremental reflective practice rubric focuses on the process of reflective practice rather than the product, and is couched in content-generic terms. Consequently, it could be applied to other law courses and cross-disciplinary courses.<sup>308</sup>

Thus, consideration should be taken to choose a marking approach and rubric that aligns with the learning objectives/outcomes and teaching method for the reflective exercise.

#### 4.3.5 How frequent and when should reflective practice exercises be administered and assessed (formative and/or summative)?

Another consideration is the frequency and timing of reflective practice exercises and the associated allocation of marks, be it an individual legal educator planning to integrate such exercises over the duration of a single course, or a curriculum committee over an entire law school program. The assessment for reflective practice exercises can be formative or summative, a mixed formative/summative approach, or summative evaluations that are formative.<sup>309</sup> There are pros and cons associated with both the formative and summative methods, and a range of considerations for incorporating formative versus summative reflective practice exercises into a

---

<sup>306</sup> Emily Zimmerman, “What Do Law Students Want?: The Missing Piece of the Assessment Puzzle” (2010) 42:1 Rutgers L J 1 at 14.

<sup>307</sup> Burton, “A Criterion-Referenced Assessment Rubric”, *supra* note 267 at 7.

<sup>308</sup> *Ibid* at 11.

<sup>309</sup> Stuckey et al, *supra* note 16 at 191. Chapters 2 and 3 of Bain, *supra* note 265 provide ideas about how educators can implement formative assessment and feedback before summative assignments.

course or program. Formative assessment involves legal educators providing feedback to students without grading, which helps both the students and assessors to identify whether students are learning the material, and ascertain strategies for improvement.<sup>310</sup> Niedwiecki, for example, states that formative assessments are the most effective way to help students develop metacognitive and thus lifelong learning skills.<sup>311</sup> Similarly, according to Bain, the best learning occurs through a formative approach, when students have a chance to obtain feedback on their learning and make changes before being graded.<sup>312</sup> Summative assessment, on the other hand, involves assigning a mark to an assignment.<sup>313</sup> Andrea Curcio cites education theorists to argue that student learning in legal education could be enhanced by increasing the frequency of evaluation through both formative and summative methods.<sup>314</sup> Introducing reflective practice exercises through formative assignments could, for example, be on a pass/fail basis and sequenced throughout a term, with feedback provided to the students. Introducing reflective practice exercises through both formative and summative assignments, on the other hand, could again involve sequencing, but contrastingly, grading some or all of the assignments. Summative assessment, on yet another hand, might involve one graded reflective practice exercise at the end of a course in which a student reflects on an action or experience. The choice of assessment approach will depend on the learning objectives/outcomes and teaching method and reflective practice exercise being used for the exercise and/or group of exercises for the course or program.

Some of the constraints identified in the literature regarding using a formative approach to assessment refer to assessors' limited capacity and time to develop and mark a number of formative assignments, which is a legitimate concern; however, could be approached with the question of "what can [we] assess and ... is it imperative that we do so?"<sup>315</sup> Despite the evidence that an end-of-term 100% final is not a valid, reliable, or fair assessment tool, many legal

---

<sup>310</sup> Zimmerman, *supra* note 306 at 11-12; Andrea Curcio, "Assessing Differently and Using Empirical Studies to See If It Makes a Difference: Can Law Schools Do It Better?" (2009) 27 Quinnipiac L Rev 899 at 930-931.

<sup>311</sup> Niedwiecki, *supra* note 26 at 166.

<sup>312</sup> Bain, *supra* note 265 at 57.

<sup>313</sup> Curcio, *supra* note 310 at 931

<sup>313</sup> *Ibid.*

<sup>314</sup> *Ibid.* Curcio suggests undertaking empirical research to test whether more frequent assessments improve student learning in legal education.

<sup>315</sup> Stuckey et al, *supra* note 16 at 189.

educators are still heavily invested in this summative approach. Given, for example, the troubling research findings of law students' low metacognitive abilities and the known benefits of reflective practice that were identified in Chapter 1, it may be that legal educators who are not already moving towards integrating more formative approaches to assessment do so, recognizing that the risks of not doing so outweigh the current summative approach. Another constraint of introducing formative assessment, however, is the students' perceptions and 'buy-in', as indicated above, to engage meaningfully in completing multiple reflective practice exercises, especially if there is not coordination regarding where and when assessments are taking place throughout a program. Multiple reflective practice assessments in a class and throughout a program could, in fact, actually have the impact of decreasing students' level of engagement with the reflective method, if not planned carefully, and if feedback is not delivered promptly so that scaffolding of learning can occur. A key way to alleviate the concern of 'overloading' students with reflective practice exercises is to, as a legal educators, engage in programmatic and curriculum mapping to be intentional about how graduate attributes such as reflective practice and lifelong learning skills are being integrated and assessed across the program.<sup>316</sup> Another way to relieve the concern of being able to provide prompt feedback, is to not limit the evaluation to only engaging the legal educator; rather, some exercises could be assessed collectively, by peers, or by oneself, which options are discussed next.

#### 4.3.6 Who is assessing the reflective practice exercise (collective, self-assessment, or peer-to-peer in addition to or in lieu of faculty assessment)?

Sossin, in a recent paper on the future of legal education, identifies various forms of assessment such as self-assessment and peer-to-peer assessment as key parts of evaluation when "the goal is [for students] not just to demonstrate knowledge or the ability to engage in analysis but to show reflective capacities such as self-awareness or ethical judgment".<sup>317</sup> This section is focused on that – how collective assessment, peer-to-peer assessment and self-assessment, in addition to (and sometimes in lieu of) faculty assessment can be used to help build reflective capacities.

---

<sup>316</sup> Postsecondary institutions with teaching and learning centres can assist with curriculum development and design. See e.g. Curriculum Development and Renewal (2017), online: University of Saskatchewan Gwenna Moss Centre for Teaching and Learning <<https://teaching.usask.ca/curriculum/course-design.php#CourseDesign> Gwenna Moss>.

<sup>317</sup> Sossin, *supra* note 297 at 6.

### *Group Feedback/Collective Assessment in Class*

Feedback can be provided in a group setting, to both evaluate reflective practice exercises and to reflect collectively about such exercises or questions in general. Benefits of this format of evaluation include “expos[ing] students to alternative points of view” and to “provide effective feedback, thus facilitating the use of self-assessment or peer-to-peer assessment with future exercises”.<sup>318</sup> Another benefit of this approach is the promptness of the feedback, which can occur immediately during a class. Cited downfalls of collective assessment include plagiarism or ‘freeloading’.<sup>319</sup>

### *Self-Assessment (or Self-Scored Assessment)*

Self-assessment (or self-scored assessment) refers to students evaluating their own reflective practice exercises as a way for them to develop the ability to regulate their thinking. Self-assessment could also be used as a form of reflection in conjunction with other assignments. The benefit of students self-scoring is that they can “directly confront their own strengths and weaknesses” and “improve their self-directed learning skills”.<sup>320</sup> There are several concerns, however, with students engaging in self-assessment, such as students overestimating<sup>321</sup> or underestimating their performance, which could decrease the reliability of the approach. Self-assessment can in some ways simplify the evaluation process for legal educators in that they do not have to fully mark the assignment, but rather can perhaps more quickly review students’ self-scoring.<sup>322</sup> This approach may be most appropriate in evaluating assignments that are more straightforward than a reflective exercise, though legal educators can take measures to address this challenge by providing a scoring rubric and clear instructions on how to evaluate oneself.<sup>323</sup>

### *Peer-to-Peer Assessment (or Peer-Scored Assessment)*

Peer-to-peer assessment (or peer-scored assessment) can also be used with and to encourage reflective practice.<sup>324</sup> Herbert Ramy outlines some of the benefits of peer-to-peer scored assessment, which, in addition to fostering a collaborative learning process (which legal

---

<sup>318</sup> Herbert Ramy, “Moving Students From Hearing and Forgetting to Doing and Understanding: A Manual for Assessment in Law School” (2013) 41 Capital Uni L Rev 837 at 857.

<sup>319</sup> Biggs & Tang, *supra* note 266 at 244.

<sup>320</sup> Ramy, *supra* note 321 at 862.

<sup>321</sup> *Ibid.*

<sup>322</sup> *Ibid.*

<sup>323</sup> *Ibid.* See also Biggs & Tang, *supra* note 266 at 244-245.

<sup>324</sup> Ramy, *supra* note 321 at 863.

education has been criticized for not fostering enough), includes “feedback, improved student performance, and development of lawyering skills”.<sup>325</sup> Ramy cites to examples where peer review has occurred in legal writing classes, but indicates that these same approaches can be integrated into assessments in other substantive law courses.<sup>326</sup> Specifically, students learn through peer-to-peer assessment in a reciprocal fashion, both from the feedback they receive from peers, and the feedback they provide to peers.<sup>327</sup> Peer-to-peer assessment, however, also has its downsides. With the competitive construction of law school, namely academic achievement being a predominant factor for attaining jobs and other honors, the reliability and fairness of the marking could be threatened.<sup>328</sup> Blind marking among peers could occur to help alleviate such concerns. Some training with the students is also required to promote reliability and fairness of peer-to-peer assessment.<sup>329</sup>

#### *Faculty Assessment*

Faculty members have a key role, of course, in designing the learning objectives/outcomes, teaching methods and exercises, and assessment approach in relation to reflective practice exercises, as has been identified throughout this Chapter. A faculty member taking on the assessment of a reflective practice exercise, versus the students or a peer group, will depend on the overall objectives/outcomes of the exercise.

This Chapter outlined in section 4.1 key principles of assessment and in section 4.2 concerns to take into account when designing and implementing assessment in relation to reflective exercises. Section 4.3 proposed a Working List of Considerations to use to tailor an assessment approach for reflective practice exercises. The principles, concerns, and Working List of Considerations described in this Chapter are not intended to be exhaustive, but rather are a starting point to consider when teaching and assessing reflective practice exercises, and to advance the literature and foundation for empirical studies in the field. The promise of using the

---

<sup>325</sup> *Ibid.*

<sup>326</sup> *Ibid.*

<sup>327</sup> *Ibid.*

<sup>327</sup> *Ibid.*

<sup>328</sup> *Ibid at 864.*

<sup>329</sup> *Ibid.*

<sup>329</sup> *Ibid.* See also Biggs & Tang, *supra* note 266 at 244-245 for more information on peer-to-peer assessment.

Working List of Considerations to inform the development of criterion-referenced scoring rubrics to assess reflective practice exercises is addressed next. From here, each reflective practice exercise on the Pedagogic Field at Appendix A could include an accompanying assessment approach that takes into account students' levels of reflective judgment. The approach of using criterion-referenced scoring rubrics as a way to start identifying students' levels of reflective judgment is explored in Chapter 5.

## **CHAPTER 5:**

### **The Promise of Scoring Rubrics to Create Alignment Between Operationalizing and Assessing Reflective Practice in Legal Education**

While the issues and considerations noted in Chapter 4 could be explored more at length, I have chosen to advance the question of scoring rubrics, here. The purpose of this Chapter is to finish answering the reflective “Now What?” question by focusing on scoring rubrics as a pathway to reliable, valid, and fair assessment of reflective practice exercises. This Chapter weaves together the previous Chapters to highlight how scoring rubrics can encourage reflective judgment, and in turn create pathways for the development of, as identified in Chapter 1, students’ metacognitive thinking, ethical conduct, and self and other-awareness leading to intercultural fluency, and more. While scoring rubrics are not a ‘panacea’, and there are pros and cons to using them, section 5.1 provides a justification for focusing on rubrics as a helpful tool for legal educators and students involved with reflective practice exercises. Section 5.2 briefly outlines several examples that bring to life the principles, concerns, and Working List of Considerations that were discussed in Chapter 4, in reference to how these concepts relate to scoring rubrics. The examples involve reflective practice exercises in the context of first an experiential learning opportunity as part of a traditional lecture setting, second a simulation, and third a clinical legal education setting. The examples loop back to the timeliness of introducing reflective practice in legal education that was discussed in Chapter 1 and in section 3.3 of Chapter 3, regarding how reflective judgment could improve, among other benefits, law graduates’ ethical conduct and intercultural fluency.

#### **5.1 Justification for Focusing On Scoring Rubrics**

Peggy L. Maki defines scoring rubrics as,

A set of criteria that identify the expected dimensions of a text and the levels of achievement along those dimensions, are criterion-referenced, providing a means to assess the multiple dimensions of student learning represented in students’ projects, work, products, and performances. Raters assess student work based on these criteria to derive inferences about students’ learning represented in various kinds of texts. In effect, rubrics translate outcome statements into criteria, also referred to as *primary traits* or *performance indicators*. These criteria publicly identify the significant dimensions that raters apply to texts [that] students generate in response

to an assessment method. Results of applying these criteria provide evidence of learning patterns.<sup>330</sup>

Maki elaborates on the definition of *criteria* descriptors and *performance* descriptors:

Criteria descriptors – descriptions of the criteria or traits manifested in a project, performance, or text students produce in response to an assessment method. Criteria identify the ways of thinking, knowing, or behaving represented in what students produce, such as ... self reflection...<sup>331</sup>

Performance descriptors – descriptions of how well students execute each criterion or trait along an achievement continuum – score levels. This continuum, then, describes representative ways that students perform or execute each criterion, reflecting mastery levels, national or professional levels, or levels established through the collective expertise of faculty, staff, and others who contribute to students' education based on their observation of students' progression over time or the typical developmental process. Achievement along a continuum may be expressed numerically, such as through a 1-5 scale, or expressed verbally to identify levels of excellence, expertise, or proficiency, as illustrated in the following examples: Exemplary Commendable Satisfactory Unsatisfactory...<sup>332</sup>

The use of a criterion-referenced or incremental scoring rubric connects the assessor to the student as it articulates criteria of importance regarding an assignment. It discloses the assessor's objectives and expectations, and serves as a clear form of communication with the student.<sup>333</sup> As was briefly described in the previous Chapter, criterion-referenced assessment relies on "detailed, explicit criteria that identify the abilities students should be demonstrating...and the bases on which the instructor will distinguish among excellent, good, competent, or incompetent performances".<sup>334</sup> Stuckey summarizes the general benefits of criterion-referenced assessment, in that it increases reliability, and more specifically, that the criteria itself promotes more reflective, empowered, and self-regulated learners:

The use of criteria minimizes the risk of unreliability in assigning grades. Criteria-referenced assessment enables teachers to "judge whether certain criteria have been satisfied and normally operates on a pass/fail basis: an example would be the driving test. It is not important to establish whether more or less drivers pass this test in any one year (or at any one center) but only to ensure that the national pass standard is

---

<sup>330</sup> Maki, *supra* note 299 at 219. See also strategies to develop scoring rubrics starting at 222 [emphasis added].

<sup>331</sup> *Ibid.*

<sup>332</sup> *Ibid* at 219-220.

<sup>333</sup> Stuckey et al, *supra* note 16 at 182.

<sup>334</sup> *Ibid.*



maintained.” “[T]he implicit pedagogical philosophy underlying criterion-referenced assessment is that the fundamental purpose of professional education is not sorting, but producing as many individuals proficient in legal reasoning and competent practice as possible.” ... The use of clear criteria helps students understand what is expected of them as well as why they receive the grades they receive. Even more importantly, it increases the reliability of the teacher’s assessment by tethering the assessment to explicit criteria rather than the instructor’s gestalt sense of the correct answer or performance. The criteria should be explained to students long before the students undergo an assessment. This enhances learning and encourages students to become reflective, empowered, self-regulated learners.<sup>335</sup>

Thus, according to Stuckey, the use of a scoring rubric itself can encourage reflective learning. In the more specific context of assessing reflective practice exercises, the criteria in scoring rubrics can, when intentionally and clearly communicated by the legal educator with the students, increase reliability of the assessment by helping to address the concerns identified in Chapter 4. Specifically, intentional and clear communication about the criteria in a scoring rubric can help to improve students’ potential lack of engagement and serve as a reminder to the assessor of perhaps their own implicit biases and subjectivity in the marking process. As was seen in the first two Chapters, the learning objectives/outcomes associated with engaging in reflective practice are varied, and the chosen teaching method and reflective practice exercise should follow from the intended learning objectives/outcomes associated with the reflection. So, the rubric is a good starting point; an anchor in some ways, to make sure the objectives/outcomes translate into assessment criteria so that the approach to evaluation aligns with the intended learning objectives/outcomes for the reflective exercise.

The scoring rubric is also a point of need, as we are only beginning to learn how to use rubrics in legal education in Canada, even though they are commonplace in education systems at so many levels, and in other countries.<sup>336</sup> In Australia, for example, all universities have endorsed criterion-referenced assessment.<sup>337</sup> Not surprisingly, published scoring rubrics for reflective practice exercises in legal education exist mostly in Australia, such as Burton’s “Criterion-Referenced Assessment Rubric on Reflective Practice Designed for a Clinical Legal

---

<sup>335</sup> *Ibid* [emphasis added; citations omitted].

<sup>336</sup> For an introduction to scoring rubrics, see generally Dannelle D Stevens & Antonia Levi, *Introduction to Rubrics: An Assessment Tool to Save Grading Time, Convey Effective Feedback, and Promote Student Learning* (Sterling, VA: Stylus Publishing, LLC, 2005).

<sup>337</sup> Burton, “A Criterion-Referenced Assessment Rubric”, *supra note 267* at 6.

Clinical Education Context”;<sup>338</sup> Burton’s criterion-referenced rubric for assessing reflection skills in law, specifically applied to a court report assignment,<sup>339</sup> and the criterion-referenced “4R Rubric” that Tina Cockburn and Mary Ryan write about in the context of “Teaching and Assessing Reflective Writing in a Large Undergraduate Core Substantive Law Unit”.<sup>340</sup> While these scoring rubrics are helpful examples, the development of a rubric will again depend on aligning its criteria with the learning objectives/outcomes and associated teaching method and reflective practice exercise. So to operationalize and assess reflective practice, a legal educator can go straight to what was talked about in Chapters 1 and 2, to align the desired learning objectives/outcomes with a teaching method and reflective practice exercise from Chapter 3, with considerations for assessment, which were introduced in Chapter 4. The scoring rubric as a communication tool and point of instruction between the assessor and students provides the opportunity to be intentional and transparent about learning objectives/outcomes and meeting law school graduate attributes, as were discussed in Chapters 1 and 3.

As was identified in Chapter 4, there are some concerns with the criterion-referenced approach to assessment in scoring rubrics. The act of legal educators identifying and applying criteria could be criticized still as unreliable.<sup>341</sup> The criteria in scoring rubrics could also have the unintended outcome as was indicated in Chapter 4, of students being allocated lower grades than they would have with a normative approach to assessment.<sup>342</sup>

The advantages of utilizing scoring rubrics, however, outweigh the concerns since the rubric is an anchor for students and the assessor as it clearly sets out the criteria for evaluation. I predict that greater implementation of and communication about scoring rubrics associated with reflective practice exercises could have a significant impact on law students and consequently the course of the legal profession. Greater use of and communication about criteria for reflective practice scoring rubrics could impact the entire justice system, from the individual practice of law to the systemic level, if legal educators communicate to students the intended objectives of

---

<sup>338</sup> *Ibid* at 12.

<sup>339</sup> Burton, “Court Report”, *supra* note 57 at 64.

<sup>340</sup> Tina Cockburn & Mary Ryan, “Teaching and Assessing Reflective Writing in a Large Undergraduate Core Substantive Law Unit” in Mary Elizabeth Ryan, ed, *Teaching Reflective Learning in Higher Education: A Systematic Approach Using Pedagogic Patterns* (Switzerland: Springer International Publishing, 2015) at 107.

<sup>341</sup> Zimmerman, *supra* note 306 at 14.

<sup>342</sup> *Ibid*.

developing reflective judgment, guiding students towards a path of ongoing self-regulated growth and lifelong learning. I argue this to be the case since, as was stated in Chapter 4, what legal educators identify as important through communicated and assessed learning objectives/outcomes is what students will pay attention to. Assessment of reflective practice exercises is especially important now since, as identified in Chapter 1, reflective judgment could foster ethical conduct and intercultural fluency, among other benefits, which is critical given the diverse and unpredictable legal and justice needs that current and future graduating law students will be faced with addressing. This requires legal educators to be intentional about incorporating such learning objectives/outcomes and related assessment criteria when scoring reflective practice exercises. As a result, designing learning objectives/outcomes that align with a teaching method and reflective practice exercise and criteria for a scoring rubric requires reflective practice, as was stated at the start of Chapter 1, on the part of legal educators.<sup>343</sup>

In line with the pragmatic, utilization-focused approach to this thesis that was outlined in the first Chapter, I maintain that there is a current window of opportunity that can be mined or lost by legal educators and the profession through how law is taught. As I identified in Chapter 1, the three visions for legal education proposed by Arthurs are, absent opportunities for students to develop reflective judgment, failing in meaningful ways. My experience, introduced in Chapter 1, as the director of CREATE Justice and coordinator of access to justice initiatives out of the University of Saskatchewan College of Law, has provided me with the chance to observe this window of opportunity. While not discounting the innovations that have evolved in the delivery of legal services in Canada, thousands of lawyers have practiced law in the way the law has traditionally been practiced. Scoring rubrics for reflective practice exercises, however, could help to be explicit about ethical values and achieve clarity on tying criteria to the progress that is needed to improve, for example, access to justice, empowering students to develop a reflective muscle and take action to help address inequities in the justice system. A reflective approach to lifelong learning and reflective conversations that lead to action are what will make the difference – creating an opportunity to reflect, and filling scoring rubrics with criteria that indicate, for example, the ethical values and cross cultural perspectives that are expected as necessary to improve access to legal services and the justice system as a whole. The scoring

---

<sup>343</sup> See e.g. Leering, “Encouraging Reflective Practice”, *supra* note 3 at 73.

rubric is an opportunity for legal educators to reflect on and communicate to students such criteria and to align the content of rubrics with graduate attributes such as critical reflection itself. The results gathered from a scoring rubric itself can then serve as a learning tool for both the student and the legal educator and institution, as Maki states:

At both the institution and program levels, [learning] patterns identify students' areas of strength as well as weakness. Interpreting patterns of weakness leads to adjustments or modifications in pedagogy; curricular, co-curricular, and instructional design; and educational practices and opportunities.<sup>344</sup>

The scoring rubric can thus be a guide to identify gaps in learning objectives/outcomes, teaching methods and reflective practice exercises, and the criteria being used for evaluation. Building on the questions that were proposed in section 3.3 of Chapter 3 (on aligning learning objectives/outcomes, teaching methods and reflective practice exercises, and performance indicators) and Chapter 4 (on how the desired behaviors might be measured), are the pragmatic and utilization-focused questions at this phase. The questions at this phase, which focus on the scoring rubric, are 'forward looking' for the legal educator in terms of how to use the scoring rubric to inform *future* alignment among the learning objectives/outcomes, teaching method, and scoring rubric for the reflective exercise:

What are the assessment findings?

What improvements have been made based on assessment findings?

What has been the impact of improvements?<sup>345</sup>

These are examples of reflective questions that legal educators could use to continuously improve and evolve the teaching and assessment of reflective practice exercises. Outlined next are examples of how a legal educator could approach designing a scoring rubric (or scrutinize an existing one) for reflective practice exercises in the context of an experiential learning assignment in a large, traditional doctrinal classroom, a simulation/skills scenario, and a clinical legal education setting.

## **5.2 Application of Previous Chapters Through Three Examples**

The following examples involve application of the Working List of Considerations that were outlined in Chapter 4, to examine the question of developing reflective judgment for 'what end?'. This section identifies how a legal educator could approach designing a scoring rubric for the

---

<sup>344</sup> Maki, *supra* note 299 at 219.

<sup>345</sup> Banta & Palomba, *supra* note 261 at 73.

assessment of reflective practice in an experiential learning assignment involving a large upper-year Evidence class, through a simulation/skills scenario, and in building critical reflection skills and potentially engaging in transformational learning in a clinical legal education setting.

5.2.1 Example 1: Assessing A Reflective Practice Exercise in a Large, Traditional Classroom  
Burton uses an experiential learning exercise and reflective court report to integrate and assess reflective practice in a large Evidence class. She has documented her approach in a journal article, which includes a court report template that she has worked on for over 13 years, as well as a criterion-referenced scoring rubric. Burton describes the court report template as “a structured framework containing headings pertaining to judicial proceedings and rules of law”.<sup>346</sup> The students are asked to attend a court case, and to demonstrate their knowledge by applying the colloquial ‘IRAC’ (issues, rules, analysis, conclusion) model by “identifying the legal issues in the court case, state the evidentiary rules of law, apply the evidentiary rules to the facts of a court case and reach a conclusion”.<sup>347</sup> Students are also instructed to use critical thinking and reflection skills, which Burton asserts “strengthens the constructive alignment between the learning outcomes and assessment”.<sup>348</sup> She stresses that the key to integrating reflective practice into a regular assignment is contingent on how such components are assessed.<sup>349</sup> The rubric includes two headings: ‘Discipline Knowledge’ and ‘Critical Thinking, Reflection and Written Communication’. First, a top grade in Discipline Knowledge, according to the scoring rubric, requires demonstrating “a comprehensive knowledge of the trial process and rules of evidence”.<sup>350</sup> Second, a top grade for Critical Thinking, Reflection and Written Communication states that students are able to do the following:

You analyzed what you observed in the courtroom from a personal perspective, and identified strengths and weaknesses in your understanding of the trial process. You suggested a way forward for dealing with weaknesses, or preferably how you dealt with them.

You analyzed what you observed in the courtroom from a historical, social, cultural or political perspective.

You questioned assumptions and values, considered alternative options, and

---

<sup>346</sup> Burton, “Court Report”, *supra* note 57 at 58.

<sup>347</sup> *Ibid* at 60.

<sup>348</sup> *Ibid* at 61.

<sup>349</sup> *Ibid* at 60.

<sup>350</sup> *Ibid* at 64.

resolved inconsistencies between your expectations from your studies and what you observed in the courtroom.<sup>351</sup>

Applying the considerations from Chapter 4 in these circumstances, students are (4.3.1) asked to reflect *on* action. In terms of aligning the assessment with the learning objectives/outcomes and teaching method and reflective exercise, students are (4.3.2) marked on the analysis and documented critical reflection. The (4.3.3) teaching method and reflective practice exercise used is a reflective court report template.<sup>352</sup> As identified, a (4.3.4) criterion-referenced rubric is used, with the performance descriptors mentioned above. A (4.3.5) summative assessment strategy was chosen. Finally, (4.3.6) the assessor in this case is the legal educator as opposed to using self-assessment, peer-to-peer assessment or collective assessment.

This same analysis could be applied by a legal educator in the context of designing and assessing reflective practice exercises in other characteristically large classrooms. For example, a scoring rubric could be designed to assess students' ability to reflect on the process they took to complete a legal brief (see the TARL Model teaching pattern described above at section 3.1.1 of Chapter 3 called Reflections Around Artefacts), to think about their thought and learning process in completing the assignment. Here, metacognitive skill development is fostered, if students are intentionally asked to reflect on and document their thought process, such as asking what approach the student took to learn and integrate their research.

#### 5.2.2 Example 2: Assessing A Reflective Practice Exercise Associated with a Negotiation Simulation/Skills Context

At the University of Saskatchewan College of Law, Professors Keet and Kleefeld have developed a scoring rubric (see Appendix B<sup>353</sup>) to assess reflective practice of students engaged in a video-taped negotiation simulation in an upper-year dispute resolution course. In the context of a video-taped negotiation simulation, these professors ask each student to reflect on the negotiation. Unlike the example in the last section which directly outlined the relation between the considerations from Chapter 4 and the design of Burton's reflective practice exercise and scoring rubric, the application of the considerations in this section is forward-looking to illustrate how legal educators who have already designed a scoring rubric can consider how the rubric

---

<sup>351</sup> *Ibid.*

<sup>352</sup> *Ibid* at 59.

<sup>353</sup> See Appendix B for a sample scoring rubric that was designed and is used by Professors Keet and Kleefeld throughout the duration of their negotiation course, and after the video simulation.

aligns with the learning objectives/outcomes and chosen teaching method and reflective practice exercise, itself. Professors Keet and Kleefeld could revisit their scoring rubric in reference to the considerations from Chapter 4 to inquire whether and why (4.3.1) they are asking the student to reflect for, in, and/or on action, so that the student can plan accordingly. They may also question (4.3.2) whether the objective is to assess the students' ability to reflect on the learning process and/or the outcome/product. The professors could also revisit in light of their scoring rubric, (4.3.3) what teaching method and reflective practice exercise would best align with the learning objectives/outcomes – for example, having students reflect orally among their peers who were involved in the negotiation, as a whole class during class-time, and/or individually through a reflective report? The next consideration is what rubric or marking scheme best fits the learning objectives/outcomes and teaching method and reflective exercise, including asking whether students should be marked strictly against criteria on the rubric, or a more normative approach should be taken. Also, the professors could consider whether the reflection associated with the negotiation simulation is part of a (4.3.4) formative and/or summative assessment strategy in the course. Have or will other summative or formative reflective practice exercises come before or after this exercise? How does this exercise and its associated assessment fit into the course and program structure? Are there concerns regarding whether it is marked on a pass/fail, numerical, or letter graded basis? Can meaningful feedback in relation to the exercise be given in a timely way? Finally, the professors could consider whether the reflective practice exercise is then most appropriately marked in reference to the scoring rubric through (4.3.6) group feedback, faculty assessment, self-assessment, or peer-to-peer assessment. This example illustrates how legal educators can analyze an existing scoring rubric in relation to the considerations from Chapter 4 to determine whether their desired learning objectives/outcomes and teaching method and reflective practice exercise aligns with the assessment criteria in their scoring rubric.

### 5.2.3 Example 3: Assessing A Reflective Practice Exercise Associated with a Clinical Legal Education Context

At the University of Saskatchewan College of Law students enrolled in Professor Buhler's CLASSIC (Community Legal Assistance Services for Saskatoon Inner City Inc.) Intensive Clinical Law Practicum and associated seminar are challenged to critically reflect on solutions to systemic justice issues. This section provides an example of how the considerations from Chapter 4 could be used in a staged approach to encourage the development of reflective judgment over the duration of a course. For example, students could be invited to think

critically about a potential issue they may face of clients not showing up for or being late for appointments and court dates.<sup>354</sup> In terms of what is temporally being assessed, knowing that clients not showing up is potentially a systemic issue, the barriers that marginalized communities face could be presented as a case study early on in the term, as (4.3.1) a reflection *for* potential action, versus reflection in or on action. While the first example highlighted an approach to design assessment for student reflection ‘on action’, reflective practice exercises and the associated assessment may also, as identified in Chapter 4, focus on reflection ‘for action’. The professor could then set out that it is (4.3.2) the process and analysis of the reflection versus the product that is being assessed. The (4.3.3) assessment tool could be presented as a reflective report, or perhaps collective reflective practice exercise in a seminar. It could be a (4.3.4) stand-alone exercise, or incrementally introduced, first through a reflective journal, followed by a collective discussion in class, then for those who may have experienced a related situation, a follow-up reflective report where the student is marked based on criteria that invites them to reflect *on* action. This sequenced approach would be formative in nature and could be or not be summative. Finally, (4.3.5) the question is whether the assessment of the reflective practice exercises themselves will involve a normative, criterion, or incremental approach, and whether the assignment is marked (4.3.6) collectively, by the legal educator, self-assessed, or peer-to-peer assessed.<sup>355</sup>

Returning back to the examples that were introduced in Chapter 1, a focus on reflection related to ethical and intercultural considerations could arguably be incorporated into scoring rubrics in any law school assignment or exam. This could improve deep as opposed to surface level learning to encourage, for example, critical and creative reflection on what ethical rules apply in a given scenario. In addition, any or all of the graduate attributes and learning objectives/outcomes suggested in Chapters 1 and 3 can be incorporated into a rubric, to encourage the development of reflective judgment. As was argued in Chapter 1 and throughout the thesis, operationalizing and assessing reflective practice in legal education, in my view, is

---

<sup>354</sup> Related literature such as Sarah Buhler, "Painful Injustices: Encountering Social Suffering in Clinical Legal Education" (2013) 20 Clin L Rev 405 could be assigned to prompt critical reflection on the topic.

<sup>355</sup> See Buhler, Marsden & Smyth, *supra* note 15 at 46 for ideas about assessment of reflective practice in clinical legal education.



necessary to meet each of the visions for law school, “training today’s lawyers”, “training tomorrow’s lawyers”, and “the law school as a knowledge community”.<sup>356</sup>

This Chapter focused on scoring rubrics as a promising approach to, building off of Chapter 4, increase the validity, reliability, and fairness of assessing reflective practice exercises in legal education. A scoring rubric can serve as a communication tool between the assessor and students about expectations for reflective practice exercises, and as an objective marking anchor for the assessor, in comparison to a normative approach. The Working List of Considerations for legal educators to tailor one’s assessment strategy that were outlined in Chapter 4 were applied to three examples to illustrate the process one might take to start designing or enhance existing scoring rubrics for reflective practice exercises. Finally, further empirical research on the topic, which has started to occur by Australian legal educators, and more widely by educators in other professional disciplines, will be necessary to advance the development of the Working List of Considerations and to determine the extent to which scoring rubrics help to increase students’ capacity for reflective judgment.

---

<sup>356</sup> Arthurs, *supra* note 17.

## CONCLUSION

The hope in completing this thesis is that it sparks a greater focus on the operationalization, scholarship, and sharing of best practices of teaching and assessing reflective judgment in legal education. In Chapter 1 of this thesis I outlined a summary of the history of reflective practice in legal education and how reflective judgment is a promising skill to help students develop metacognition, ethical conduct, intercultural fluency, and the praxis needed to respond to the called upon culture shift and largely unpredictable needs of lawyering in the twenty-first century. In Chapter 2, I summarized the components of three reflective practice models that have been written about in the context of legal education and provided related recommendations for further consideration and research. Another key part of Chapter 2 was analyzing the overlap among the models. In Chapter 3, I described the reflective practice exercises associated with the three models from Chapter 2, and through mapping the exercises on the Pedagogic Field of the TARL Model (visually represented at Appendix A), proposed a Working Operationalization for reflective practice in legal education. In Chapter 4, I identified a Working List of Considerations that, through faculty guidance, could lead to more valid, reliable, and fair assessment of reflective exercises and aid in steering students towards the metacognitive level of thinking. Finally, in Chapter 5, I argued that scoring rubrics can be used to advance valid, reliable, and fair assessment of reflective practice exercises in legal education. Three examples were outlined for the purpose of highlighting how the Working List of Considerations from Chapter 4 can inform the development of scoring rubrics. I also identified how scoring rubrics can clearly communicate values to students and as a result have the opportunity to transform the legal profession in ways that justice stakeholders have been called upon to do.

There are recommendations for further consideration and research that arose from my work. First, law school faculties would ideally undertake regular curricular mapping and identify how the development of reflective practice skills across a program or series of courses could be sequenced, since an intentional, consistent, and scaffolded approach to this type of learning has been argued to be most effective. Law faculties could, using the TARL Model, intentionally identify how graduate attributes related to reflective practice map into individual class sessions, over the duration of a course, and over the law school program. However, legal educators need not wait for curricular mapping in order to introduce and assess reflective practice in any law school course. More theoretical and empirical research is necessary to further test and develop

best practices of assessment of reflective practice in legal education, which, as identified in previous Chapters, should involve both testing the proposed Working Operationalization from Chapter 3 and the Working List of Considerations for assessment from Chapter 4. Further ongoing consideration should also be given as to how other models of reflective practice outside of the three models examined in this thesis may strengthen the Working Operationalization. Social science research is needed to test students' metacognitive development, based on those who do or do not engage in reflective practice exercises during law school. Further research that inquires into how legal educators are building their own reflective practice would be helpful, so that it can be modelled to students.

The topic of operationalizing and assessing reflective practice in Canadian legal education is an understudied teaching and learning approach. The purpose of this thesis is to provide a pragmatic and utilization-focused starting point for further operationalization and study of the topic. As Anzalone states,

The use of reflection in law school teaching acts as both an antidote to the dissociative elements of the law school experience and a step toward incorporation of the intellectual and the emotional; it is a step toward integration of the whole person into the learning process itself.<sup>357</sup>

This thesis set out to address the reflective questions of “What? So what? Now what?”. Indeed, on the questions of “What?” and “So what”, we ‘know better’, from the scientific studies on metacognition, research from other disciplines, and a self-identified call for a cultural shift that were described in Chapter 1, that reflective judgment is a promising teaching and learning approach to help equip law students to tackle the issues the legal profession and justice system of the twenty-first century face. “Now” we are invited to address the final question and ‘do better’, which I have suggested throughout this thesis involves building on an empirically based and continuously evolving Working Operationalization and Working List of Considerations to teach and assess reflective practice in legal education – towards a pedagogy of reflective practice.

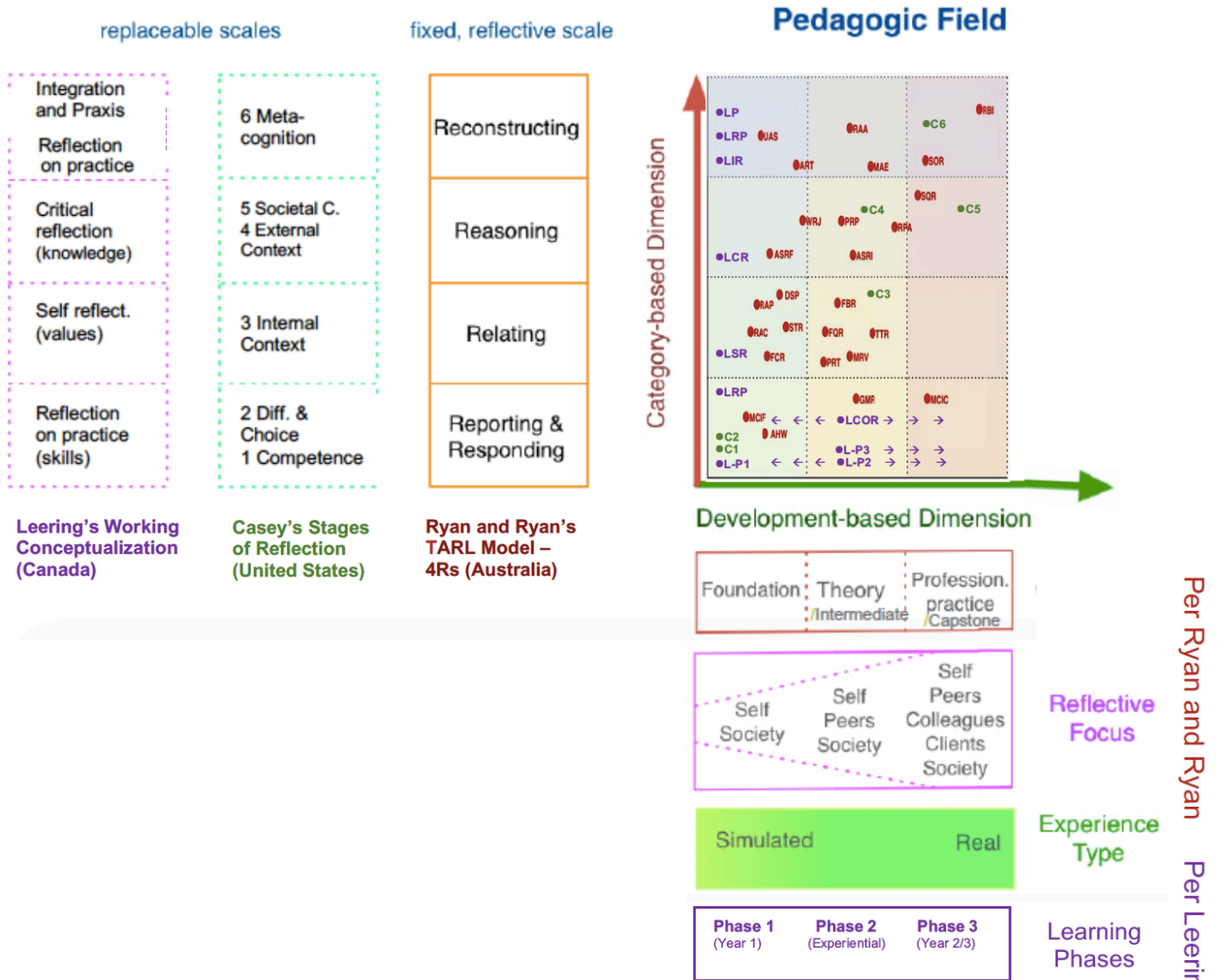
---

<sup>357</sup> Anzalone, *supra* note 7 at 86.

## APPENDICES

**APPENDIX A:  
A Working Operationalization of Reflective Practice in Legal Education and  
Map Key for Pedagogic Field**

**Figure A-1.** A Working Operationalization of Reflective Practice in Legal Education<sup>358</sup>



<sup>358</sup> As previously identified at footnote 138, this figure is adapted by permission from Springer Customer Service Centre GmbH: [Springer Nature] Sue Taylor & Mary Ryan, “Teaching Peer Review Reflective Processes in Accounting” in Mary Elizabeth Ryan, ed, *Teaching Reflective Learning in Higher Education: A Systematic Approach Using Pedagogic Patterns* (Switzerland: Springer, 2015) at 120. Further permission to adapt the Figure was obtained from Springer Nature and the author, as can be viewed below in Appendix C. This Figure was published in a Springer Nature Book: <https://link.springer.com/book/10.1007%2F978-3-319-09271-3>. Note that the levels that make up the visual image of the ‘fixed reflective scale’ have been adapted by Ryan and Ryan from J D Bain et al, *Reflecting on practice: Student teachers’ Perspectives* (Flaxton: Post Pressed, 2002). See more M Ryan, “Improving reflective writing in higher education: A social semiotic perspective” (2010) 16:1 Teaching in Higher Education 99.

## Map Key for Pedagogic Field

### Teaching Patterns from Ryan and Ryan's TARL Model Mapped on Pedagogic Field

*Teaching Patterns Organized by Category-based Dimension of TARL Pedagogic Field (Vertical Axis)*

Teaching Patterns for Level 1 – Reporting and Responding<sup>359</sup>

Foundation Phase

- **MCIF:** 'Mapping Critical Incidents'
- **AHW:** 'Ad Hoc Web'

Intermediate/Theoretical Phase

- **GMR:** 'Group Microcasts for Reflection'

Capstone/Professional practice Phase

- **MCIC:** 'Mapping Critical Incidents – Capstone'

Teaching Patterns for Level 2 – Relating<sup>360</sup>

Foundation Phase

- **FCR:** 'Future Career Reflections'
- **RAC:** 'Reflection Assessment Criteria'
- **RAP:** 'Reflections About Performance'
- **STR:** 'Start Talking Reflection'
- **DSP:** 'Double Sided Projects'

Intermediate/Theoretical Phase

- **PRT:** 'Prompting Reflection with the Help of Technology'
- **MRV:** 'Making Reflection Visible'
- **FQR:** 'Formulating Questions for Reflection'
- **FBR:** 'Fishbowl Reflection'
- **TTR:** 'Task-orientated Teamwork Reflection'

Teaching Patterns for Level 3 – Reasoning<sup>361</sup>

Foundation Phase

- **ASRF:** 'Analyzing a Scenario Response – Foundation'
- **WRJ:** 'Writing Reflective Journals'

Intermediate/Theoretical Phase

- **RPA:** 'Reflection as a Professional Activity While Service Learning'
- **ASRI:** 'Analyzing a Scenario Response'

---

<sup>359</sup> Descriptions of Teaching Patterns for Level 1 – Reporting and Responding and citations to the original sources can be found above at 44.

<sup>360</sup> Descriptions of Teaching Patterns for Level 2 – Relating and citations to the original sources can be found above at 45.

<sup>361</sup> Descriptions of Teaching Patterns for Level 3 – Reasoning and citations to the original sources can be found above at 47.

Capstone/Professional practice Phase  
●**SQR**: ‘SQR Socratic Questions for Reflection’

Teaching Patterns for Level 4 – Reconstructing<sup>362</sup>

Foundation Phase

- UAS**: ‘Using Assessment Scenarios’
- ART**: ‘Analyzing Reflective Texts’

Intermediate/Theoretical Phase

- RAA**: ‘Reflections Around Artefacts’
- MAE**: ‘Making Annotated Exemplars’

Capstone/Professional practice Phase

- SOR**: ‘Second Order Reflections’
- RBI**: ‘Reflective Blogs During Internship’

### Reflective Methods from Leering’s Working Conceptualization Mapped on Pedagogic Field

*Reflective Methods Using ‘Integrated Reflective Practice Framework’, Mapped on Category-based Dimension of TARL Pedagogic Field (Vertical Axis)*

● **LRP**: Methods for Reflection on Practice (Skills) – Corresponding with TARL Model Levels 1 and 4

- “... ‘self-assessment exercises such as learning style assessments’ and ‘learning contracts or learning plans, a form of personal development planning’”.
- “...systematic reflection on skills such as ‘legal reasoning, ... research, ... writing, oral or written advocacy, or mootng’ ...”<sup>363</sup>

● **LSR**: Methods for Self-Reflection (Values) – Corresponding with TARL Model Level 2

- “...students could focus on how ‘[their] values map onto professional role values’...”
- “... ‘self-assessment exercises for professional role preferences’...”
- “...contemplate ‘why they have chosen this professional path, on their strengths and weaknesses, and to consider different roles for legal professionals’”.<sup>364</sup>

● **LCR**: Methods for Critical Reflection (Knowledge) – Corresponding with TARL Model Level 3

---

<sup>362</sup> Descriptions of Teaching Patterns for Level 2 – Relating and citations to the original sources can be found above at 48.

<sup>363</sup> Further description of this excerpt on Methods for Reflection on Practice and citations to the original sources can be found above at 51.

<sup>364</sup> Further description of this excerpt on Methods for Self-Reflection and citations to the original sources can be found above at 52.

- "...introducing 'socio-legal scholarship', 'legal jurisprudential concepts and questions', 'legal needs studies and other empirical research about the 'law as lived'', and 'concepts of legal pluralism'".
- "...clinical legal education... paired with 'critical theory' and 'interrogating the existing paradigms of legal practice'".<sup>365</sup>

● **LIR:** Methods for Integrative or Integrated Reflection – Corresponding with TARL Model Level 4

- "...mulling over a particular practice [that law students] are dissatisfied with may lead to critical reflection on their skill or knowledge base' that could 'spark... a need for new knowledge to help improve the practice'".
- "...reading critical theory could 'lead to interrogating an aspect of something they are doing (practice) or a way of being (self)...'"
- "Clinical and experiential learning opportunities..."
- "...reflective writing..."
- "...reflective portfolios..."<sup>366</sup>

● **LP:** Methods for Praxis – Corresponding with TARL Model Level 4

- "...methods to teach students how to advance from reflective insights to act on those insights, will be 'highly contextual and individual'".<sup>367</sup>

*Reflective Methods Using 'Learning Phases Framework', Mapped on Development-based Dimension of TARL Pedagogic Field (Horizontal Axis)*

● **L-P1:** Methods During Phase 1 (Year 1 of a Canadian law school program) – Corresponding with TARL Model Foundation Phase

- "...integration of exercises into Orientation and the curriculum that begins building students' metacognition".
- "...speakers, shadowing opportunities, service learning, pro bono experience, retreats, field trips, creating a mission statement, meditation and stress reduction techniques, creating a learning and personal development plan, keeping a learning journal, and more".<sup>368</sup>

● **L-P2:** Methods During Phase 2 (Experiential Education and Experiential Learning in a law school program) – Corresponding with TARL Model Experience Type Phase

- "...problem-based and project-based learning, simulations, clinical legal education and externships, volunteer or service learning experiences, mootings, client counselling, other

---

<sup>365</sup> Further description of this excerpt on Methods for Critical Reflection and citations to the original sources can be found above at 52.

<sup>366</sup> Further description of this excerpt on Methods for Integrative or Integrated Reflection and citations to the original sources can be found above at 53.

<sup>367</sup> Further description of this excerpt on Methods for Praxis and citations to the original sources can be found above at 53.

<sup>368</sup> Further description of this excerpt on Methods During Phase 1 (Year 1 of a Canadian law school program) and citations to the original sources can be found above at 54.



legal skill competitions, summer law student work, part-time legal work or work/study programs, and extra or co-curricular activities”<sup>369</sup>.

● **L-P3:** Methods During Phase 3 (Years 2 and 3 of a Canadian law school program) – Corresponding with TARL Model Intermediate and Capstone Phases

- “...’capstone courses or experiences or synthesizing reflective exercise such as developing a reflective learning portfolio’...include[ing] an ‘articulated theory of professional practice’ an ‘aspirational personalized professional oath’, or a ‘philosophy of practice’”<sup>370</sup>.

● **L-CR:** Methods for Collective Reflection – Corresponding with TARL Model Reflective Focus Phase

- “...introducing communities of practice in first-year legal writing and upper-year level skills courses, interdisciplinary and multidisciplinary collaborations, and group work.”

- “...collective inquiries such as the ‘collaborative drafting of a class constitution’ in first-year constitutional law and ‘pedagogical experiments using social innovation technologies, [which] provide creative opportunities for collective reflection’, such as ‘design thinking courses and ‘innovation labs’”<sup>371</sup>.

### **Reflective Assignments from Casey’s Stages of Reflection Mapped on Pedagogic Field**

*Reflective Assignments Mapped on Category-based Dimension (Vertical Axis) and Development-based Dimension (Horizontal Axis) of TARL Pedagogic Field*

● **C1:** Assignments During Stage 1 (Competence) – Corresponding with TARL Model Level 1 and Foundation Phase

- “...a ‘Stage One reflective assignment...pairs well with a lawyering performance related to legal research’”<sup>372</sup>.

● **C2:** Assignments During Stage 2 (Difference and Choice) – Corresponding with TARL Model Level 1 and Simulated Phases

- “...reflection ‘should be matched with a task [such as a mock client interview] where the experience of performing the assignment will demonstrate to the student that there is more than one way to accomplish the assignment successfully’”<sup>373</sup>.

---

<sup>369</sup> Further description of this excerpt on Methods During Phase 2 (Experiential Education and Experiential Learning in a law school program) and citations to the original sources can be found above at 55.

<sup>370</sup> Further description of this excerpt on Methods During Phase 3 (Years 2 and 3 of a Canadian law school program) and citations to the original sources can be found above at 55.

<sup>371</sup> Further description of this excerpt on Methods for Collective Reflection and citations to the original sources can be found above at 56.

<sup>372</sup> Further description of this excerpt on Assignments During Stage 1 (Competence) and citations to the original sources can be found above at 57.

<sup>373</sup> Further description of this excerpt on Assignments During Stage 2 (Difference and Choice) and citations to the original sources can be found above at 57.

- **C3:** Assignments During Stage 3 (Internal Context) – Corresponding with TARL Model Level 2 and Experience Type Phase  
- “...a negotiation exercise is the assignment used to prompt reflection”.<sup>374</sup>
- **C4:** Assignments During Stage 4 (External Context) – Corresponding with TARL Model Level 3 and Intermediate Phase  
- “...should reflect on interactive lawyering tasks [such as ‘client interviews, counselling sessions, negotiations, mediations, and oral arguments’].”<sup>375</sup>
- **C5:** Assignments During Stage 5 (Societal Context) – Corresponding with TARL Model Level 3 and Professional practice/Capstone Phase  
- “...live-client experiences...[where] students’ prior experiences are challenged and that reflective skills will help students to elicit meaning from the experience”.<sup>376</sup>
- **C6:** Assignments During Stage 6 (Metacognition) – Corresponding with TARL Model Level 4 and Professional practice/Capstone Phase  
- “...reflective writing...through journals or other writing assignments...”<sup>377</sup>

---

<sup>374</sup> Further description of this excerpt on Assignments During Stage 3 (Internal Context) and citations to the original sources can be found above at 58.

<sup>375</sup> Further description of this excerpt on Assignments During Stage 4 (External Context) and citations to the original sources can be found above at 59.

<sup>376</sup> Further description of this excerpt on Assignments During Stage 5 (Societal Context) and citations to the original sources can be found above at 59.

<sup>377</sup> Further description of this excerpt on Assignments During Stage 6 (Metacognition) and citations to the original sources can be found above at 60.

## APPENDIX B: Sample Scoring Rubric

### RUBRIC FOR ASSESSING A REFLECTIVE JOURNAL<sup>1</sup> John Kleefeld & Michaela Keet<sup>2</sup>

As you move from left to right in this table, reflection increases. We have tried to capture the sense of deepening reflection with the words "Describing," "Understanding," "Reflecting," and Transforming. We would expect you to aspire most of the time to attain the Reflecting stage in your writing, and at least some of the time, the Transforming stage.

	Describing	Understanding	Reflecting	Transforming
Nature of the account	Account is descriptive, with little or no reflection. A story is told, but mainly or entirely from one viewpoint. Ideas or recollections of events are linked by sequence rather than meaning.	Account is descriptive and signals points for possible reflection. Events are treated as though they might raise an important question or questions to be asked and answered. There may be reference to another viewpoint.	Account is descriptive and accents points for actual reflection. There is reference to other viewpoints and external ideas, and analysis of the actions of self or others. There is some standing back from events in an effort to recognize the effect of the events on the self.	Description serves the reflective process. Account recognizes that the frame of reference for an event can change. Events are understood in a historical, social or psychological context that influences reactions to them—in other words, multiple viewpoints are considered.
Emotional reactions	There are no references to emotional reactions, or if there are, they do not get explored or related to behaviour of self or others.	Emotional reactions of self or others are mentioned or clearly influence the writing. Such influences are noted and questioned.	Emotional reactions are recognized and their influence is questioned. An attempt is made to consider their role in analyzing behaviour of self or others.	Emotional reactions are recognized, both in the sense of shaping ideas and in considering how they can frame the account in different ways. Reactions may trigger or support a change in perspective.
Reference to literature or theory	There are no references to theory, or if there are, they are made without apparently trying to understand them or form a view on them.	There is some reference to theory, with an attempt to understand it. But concepts are treated just as theory, without being related to personal experiences or practical situations.	There are references to theory, showing both an understanding and an application of it. Concepts are interpreted in relation to personal experiences, or situations encountered in practice are considered and discussed in relation to theory.	There are references to theory, showing understanding and application as well as a questioning stance. Theory helps to trigger a transformation of perspective—a review of presuppositions from prior conscious or unconscious learning.
Reference to experience or future practice	There are no references to prior experience or lessons to be learned for future practice. The description may, though, form a basis for such learning.	There is some attempt to connect events to prior experience and a sense that events could lead to lessons for future practice. However, the reflection needs to be deeper to enable the learning to begin to occur.	There are references both to prior experience and lessons for future practice. There is an attempt to use events to analyze progress in attaining learning goals.	There is recognition of how prior experiences—of self and others—influence current behaviour. Points for learning are noted and may be revisited in later accounts. The journal shows growth over a course of study.

<sup>1</sup> Inspired by Jennifer Moon, *Learning Journals: A Handbook for Reflective Practice and Professional Development* (2d edn, Routledge 2006) (ebook Resource 2) and David Kember, Jan McKay, Kit Sinclair & Frances Kam Yuet Wong, 'A four-category scheme for coding and assessing the level of reflection in written work' (2008) 33:4 *Assessment & Evaluation in Higher Education* 369. Assessment rubrics apply descriptors (columns) to dimensions (rows). Moon uses the descriptors 'Descriptive writing,' 'Descriptive account with some reflection,' 'Reflective writing (1)' and 'Reflective writing (2)'. Kember et al use 'Habitual action/non-reflection,' 'Understanding,' 'Reflection' and 'Critical reflection.' Both authors recognize, implicitly or explicitly, that these are descriptors or categories of convenience and are not watertight: reflective practices and reflective writing exist on a continuum. The descriptors used here are our own attempt to simplify and track this continuum. The dimensions are distilled chiefly from Moon's work on learning journals for the professions.

<sup>2</sup> University of Saskatchewan, College of Law.

**APPENDIX C:  
Copyright Permissions**

**Copyright permission for Figures 2-1 and 2-2**



Our Ref: JB/CHER/P18/0091

11<sup>th</sup> January 2018

Dear Brea Lowenberger

Thank you for your correspondence requesting permission to reproduce the following figures from our Journal in your printed thesis and to be posted in your university's repository at University of Saskatchewan.

**Figure 1 & 2 'Theorising a model for teaching and assessing reflective learning in higher education' by Mary Ryan & Michael Ryan *Higher Education Research & Development* Vol 32:2 pp. 244-257 (2013).**

We will be pleased to grant entirely free permission on the condition that you acknowledge the original source of publication and insert a reference to the Journal's web site:

[www.tandfonline.com](http://www.tandfonline.com)

Please note that this licence does not allow you to post our content on any third-party websites or repositories.

Thank you for your interest in our Journal.

Yours sincerely

**Jo Bateman** – Permissions Administrator, Journals  
Taylor & Francis Group  
3 Park Square, Milton Park, Abingdon, Oxon, OX14 4RN, UK.  
Tel: +44 (0)20 7017 7617  
Fax: +44 (0)20 7017 6336  
Web: [www.tandfonline.com](http://www.tandfonline.com)  
e-mail: [joanne.bateman@tandf.co.uk](mailto:joanne.bateman@tandf.co.uk)

264 Park Square, Milton Park, Abingdon, Oxfordshire OX14 4RN  
Tel: +44 (0) 20 7017 6000; Fax: +44 (0) 20 7017 6336

[www.tandf.co.uk](http://www.tandf.co.uk)

Registered in England and Wales. Registered Number: 1072954  
Registered office: 5 Howick Place, London, SW0 0HQ

an informa business

**From:** "Bateman, Joanne" <Joanne.Bateman@tandf.co.uk>  
**Subject:** RE: Urgent - Permission to use and adapt  
**Date:** January 11, 2018 at 4:58:03 AM CST  
**To:** "Lowenberger, Brea" <bt1961@mail.usask.ca>

Dear Brea,

Thank you for your reply.  
Yes this is fine as you have received permission from the authors.

Kind Regards

**Jo Bateman** – Permissions Administrator, Journals  
Taylor & Francis Group  
3 Park Square, Milton Park, Abingdon, Oxon, OX14 4RN, UK.  
Tel: +44 (0)20 7017 7617  
Fax: +44 (0)20 7017 6336  
Web: [www.tandfonline.com](http://www.tandfonline.com)  
e-mail: [joanne.bateman@tandf.co.uk](mailto:joanne.bateman@tandf.co.uk)



Taylor & Francis is a trading name of Informa UK Limited,  
registered in England under no. 1072954

**From:** Lowenberger, Brea [mailto:bt1961@mail.usask.ca]  
**Sent:** 11 January 2018 10:56  
**To:** Bateman, Joanne <Joanne.Bateman@tandf.co.uk>  
**Subject:** Re: Urgent - Permission to use and adapt

Thank you so much for your prompt response, Jo. A follow up question - Does the licence to use the figures also give me permission to adapt them in my thesis? I contacted the authors and they said to go ahead and adapt them but I wanted to check with you too.

Thank you,  
Brea

## Copyright permission for Figures 2-3 and A-1

### SPRINGER NATURE LICENSE TERMS AND CONDITIONS

Jan 16, 2018

---

This Agreement between Brea Lowenberger ("You") and Springer Nature ("Springer Nature") consists of your license details and the terms and conditions provided by Springer Nature and Copyright Clearance Center.

License Number	4270620915156
License date	Jan 16, 2018
Licensed Content Publisher	Springer Nature
Licensed Content Publication	Springer eBook
Licensed Content Title	Teaching Peer Review Reflective Processes in Accounting
Licensed Content Author	Sue Taylor, Mary Ryan
Licensed Content Date	Jan 1, 2015
Type of Use	Thesis/Dissertation
Requestor type	academic/university or research institute
Format	electronic
Portion	figures/tables/illustrations
Number of figures/tables/illustrations	1
Will you be translating?	no
Circulation/distribution	<501
Author of this Springer Nature content	no
Title	OPERATIONALIZING AND ASSESSING REFLECTIVE EXERCISES IN LEGAL EDUCATION: TOWARDS A PEDAGOGY OF REFLECTIVE PRACTICE
Instructor name	Michaela Keet
Institution name	University of Saskatchewan
Expected presentation date	Jan 2018
Portions	Fig. 8.3 at page 120



Requestor Location	Brea Lowenberger 305-1220 Pringle Way
	Saskatoon, SK S7T0X5 Canada Attn: Brea Lowenberger
Billing Type	Invoice
Billing Address	Brea Lowenberger 305-1220 Pringle Way
	Saskatoon, SK S7T0X5 Canada Attn: Brea Lowenberger
Total	0.00 CAD

Terms and Conditions

**Springer Nature Terms and Conditions for RightsLink Permissions**

**Springer Customer Service Centre GmbH (the Licensor)** hereby grants you a non-exclusive, world-wide licence to reproduce the material and for the purpose and requirements specified in the attached copy of your order form, and for no other use, subject to the conditions below:

1. The Licensor warrants that it has, to the best of its knowledge, the rights to license reuse of this material. However, you should ensure that the material you are requesting is original to the Licensor and does not carry the copyright of another entity (as credited in the published version).

If the credit line on any part of the material you have requested indicates that it was reprinted or adapted with permission from another source, then you should also seek permission from that source to reuse the material.

2. Where **print only** permission has been granted for a fee, separate permission must be obtained for any additional electronic re-use.
3. Permission granted **free of charge** for material in print is also usually granted for any electronic version of that work, provided that the material is incidental to your work as a whole and that the electronic version is essentially equivalent to, or substitutes for, the print version.
4. A licence for 'post on a website' is valid for 12 months from the licence date. This licence does not cover use of full text articles on websites.

5. Where **'reuse in a dissertation/thesis'** has been selected the following terms apply: Print rights for up to 100 copies, electronic rights for use only on a personal website or institutional repository as defined by the Sherpa guideline ([www.sherpa.ac.uk/romeo/](http://www.sherpa.ac.uk/romeo/)).
6. Permission granted for books and journals is granted for the lifetime of the first edition and does not apply to second and subsequent editions (except where the first edition permission was granted free of charge or for signatories to the STM Permissions Guidelines <http://www.stm-assoc.org/copyright-legal-affairs/permissions/permissions-guidelines/>), and does not apply for editions in other languages unless additional translation rights have been granted separately in the licence.
7. Rights for additional components such as custom editions and derivatives require additional permission and may be subject to an additional fee. Please apply to [Journalpermissions@springernature.com](mailto:Journalpermissions@springernature.com)/[bookpermissions@springernature.com](mailto:bookpermissions@springernature.com) for these rights.
8. The Licensor's permission must be acknowledged next to the licensed material in print. In electronic form, this acknowledgement must be visible at the same time as the figures/tables/illustrations or abstract, and must be hyperlinked to the journal/book's homepage. Our required acknowledgement format is in the Appendix below.
9. Use of the material for incidental promotional use, minor editing privileges (this does not include cropping, adapting, omitting material or any other changes that affect the meaning, intention or moral rights of the author) and copies for the disabled are permitted under this licence.
10. Minor adaptations of single figures (changes of format, colour and style) do not require the Licensor's approval. However, the adaptation should be credited as shown in Appendix below.

**Appendix — Acknowledgements:**

**For Journal Content:**

Reprinted by permission from [the Licensor]: [Journal Publisher (e.g. Nature/Springer/Palgrave)] [JOURNAL NAME] [REFERENCE CITATION (Article name, Author(s) Name), [COPYRIGHT] (year of publication)]

**For Advance Online Publication papers:**

Reprinted by permission from [the Licensor]: [Journal Publisher (e.g. Nature/Springer/Palgrave)] [JOURNAL NAME] [REFERENCE CITATION (Article name, Author(s) Name), [COPYRIGHT] (year of publication), advance online publication, day month year (doi: 10.1038/sj.[JOURNAL ACRONYM].)]

**For Adaptations/Translations:**

Adapted/Translated by permission from [the Licensor]: [Journal Publisher (e.g. Nature/Springer/Palgrave)] [JOURNAL NAME] [REFERENCE CITATION (Article name, Author(s) Name), [COPYRIGHT] (year of publication)]

**Note: For any republication from the British Journal of Cancer, the following credit line style applies:**

Reprinted/adapted/translated by permission from [the Licensor]: on behalf of Cancer Research UK: : [Journal Publisher (e.g. Nature/Springer/Palgrave)] [JOURNAL NAME] [REFERENCE CITATION (Article name, Author(s) Name), [COPYRIGHT] (year of publication)]

**For Advance Online Publication papers:**

Reprinted by permission from The [the Licensor]: on behalf of Cancer Research UK: [Journal Publisher (e.g. Nature/Springer/Palgrave)] [JOURNAL NAME] [REFERENCE CITATION (Article name, Author(s) Name), [COPYRIGHT] (year of publication), advance online publication, day month year (doi: 10.1038/sj.[JOURNAL ACRONYM].)]



**For Book content:**

Reprinted/adapted by permission from [the Licensor]: [Book Publisher (e.g. Palgrave Macmillan, Springer etc) [Book Title] by [Book author(s)] [COPYRIGHT] (year of publication)

**Other Conditions:**

Version 1.0

Questions? [customercare@copyright.com](mailto:customercare@copyright.com) or +1-855-239-3415 (toll free in the US) or +1-978-646-2777.

---

On Jan 14, 2018, at 8:24 PM, Springer, Permissions <[permissions.springer@spi-global.com](mailto:permissions.springer@spi-global.com)> wrote:

Dear Brea,

Please secure permission via Rightslink.

After securing permission, Springer has no objections to the modifications requested as long as the author gives his approval as well.

Simply visit: <http://link.springer.com> and locate your desired content.

Then go to the article's or chapter's abstract and scroll to the bottom of the page to the section "About this chapter" or "About this article". Here you will find the link "Reprints and Permissions" to open the RightsLink order entry page.

1. Select the way you would like to reuse the content;
2. Create an account if you haven't already;
3. Accept the terms and conditions and you're done!

For questions about using the Rightslink service, please contact Customer Support at Copyright Clearance Center via phone Tel: +1-855-239-3415 or +1-978-646-2777 or email [customercare@copyright.com](mailto:customercare@copyright.com).

Sincerely,

**Springer Nature**

Rights and Permissions  
Springer Science+Business Media  
Tiergartenstr. 17  
69121 Heidelberg  
Germany

**From:** Lowenberger, Brea [mailto:bt1961@mail.usask.ca]  
**Sent:** Friday, January 12, 2018 11:31 PM  
**To:** Springer, Permissions  
**Subject:** Fwd: Case #00437515 - Urgent - permission to use and adapt [ref:\_00D30oeGz.\_5000c1UBMM3:ref ]

Hello,

Please see the request below.

Thank you,  
Brea

**From:** "[customercare@copyright.com](mailto:customercare@copyright.com)" <[customercare@copyright.com](mailto:customercare@copyright.com)>  
**Subject:** Case #00437515 - Urgent - permission to use and adapt [ref:\_00D30oeGz.\_5000c1UBMM3:ref ]  
**Date:** January 12, 2018 at 3:27:17 AM CST  
**To:** "[bt1961@mail.usask.ca](mailto:bt1961@mail.usask.ca)" <[bt1961@mail.usask.ca](mailto:bt1961@mail.usask.ca)>

Dear Ms. Lowenberger,  
Thank you for contacting Copyright Clearance Center's RightsLink service. Please be advised that we only grant permission for the reuse of the materials as it was originally published. Please contact the copyright owner to request this type of permission:

**Springer**  
[permissions.springer@spi-global.com](mailto:permissions.springer@spi-global.com)  
Sincerely,  
Mona Are  
Customer Account Specialist  
Copyright Clearance Center  
222 Rosewood Drive  
Danvers, MA 01923  
[www.copyright.com](http://www.copyright.com)  
+1.855.239.3415

[Facebook](#) - [Twitter](#) - [LinkedIn](#)  
ref:\_00D30oeGz.\_5000c1UBMM3:ref

**From:** Lowenberger, Brea [[btl961@mail.usask.ca](mailto:btl961@mail.usask.ca)]  
**Sent:** 1/11/2018 10:54 PM  
**To:** [customercare@copyright.com](mailto:customercare@copyright.com)  
**Subject:** Urgent - permission to use and adapt

Hello,

I am writing for permission to use and adapt Fig. 8.3 at page 120 in the following book. I need permission to use it in my thesis. I have received permission from the authors to adapt the image.

Thank you,  
Brea

-----

Teaching Reflective Learning in Higher Education: A Systematic Approach Using Pedagogic Patterns

**Editors:**

Mary Elizabeth Ryan

Mary Elizabeth Ryan

Springer International Publishing Switzerland 2015

DOI: <https://doi.org/10.1007/978-3-319-09271-3>

**Permission from authors to reproduce Figure 3-1 and adapt Figures 2-3 and A-1**

**From:** Michael Ryan <michael@straypatterns.net>  
**Subject: Re: Urgent - Email exchange to include in thesis appendix**  
**Date:** January 13, 2018 at 3:29:20 AM CST  
**To:** "Lowenberger, Brea" <bt1961@mail.usask.ca>

hello Brea,  
just to confirm, you have my permission to adapt the figures.  
regards,

--

michael ryan  
email: [michael@straypatterns.net](mailto:michael@straypatterns.net)  
mob: 0405844898  
web: [www.straypatterns.net](http://www.straypatterns.net)

**From:** Mary Ryan <mary.ryan@mq.edu.au>  
**Subject: Re: Urgent - Email exchange to include in thesis appendix**  
**Date:** January 13, 2018 at 2:32:32 AM CST  
**To:** "Lowenberger, Brea" <bt1961@mail.usask.ca>  
**Cc:** Michael Ryan <michael@straypatterns.net>

Dear Brea  
That's fine as long as it is appropriately referenced to us. You don't need further permission from Sue Taylor. Have you seen our book from this project?  
Regards  
Mary

On 13 Jan 2018, at 1:36 pm, Lowenberger, Brea <bt1961@mail.usask.ca> wrote:

Dear Mary and Michael,

I hope you are well. I have contacted the publishers that correspond with your below-mentioned work to seek permission to reproduce the below figures. While I have already been in contact with you about this, I am writing to inform that I have reached the end of my graduate program and am going to include a copy of our email exchange in the appendix of my thesis to document your approval (i.e. this email and your responses). Can you please confirm that you agree to me using your work in the ways that are highlighted below?

Ryan, Mary E & Michael Ryan. "Theorising a model for teaching and assessing reflective learning

in higher education” (2013) Higher Education Research and Development.

- Figure 1 Pedagogic Field – Permission was granted by Taylor & Francis Group to reproduce this image.
- Figure 2 The TARL Model – Permission was granted by Taylor & Francis Group to reproduce this image. **I am writing to confirm from you that I can adapt this image in my thesis and in future presentations and publications.**

Ryan, Mary Elizabeth, ed. *Teaching Reflective Learning in Higher Education: A Systematic Approach Using Pedagogic Patterns* (Switzerland: Springer, 2015).

- Fig. 8.3 – Seeking permission from Springer to reproduce image. **I am writing to confirm from you that I can adapt this image in my thesis and in future presentations and publications. Should I also seek permission from Sue Taylor since she was a co-author of this chapter of the book?**

“Pattern Language”, online: Developing Reflective Approaches to Writing Project

<<https://sites.google.com/site/qutdrawproject/pattern-language>>.

- Pattern Language – **I could not find this image in any of your published material, so I am writing to confirm from you that I can reproduce and adapt this image from your website in my thesis and in future presentations and publications.**

Thank you,  
Brea

## Permission from authors to reproduce scoring rubric at Appendix B

**From:** "Keet, Michaela" <m.keet@usask.ca>  
**Subject:** rubric  
**Date:** January 16, 2018 at 8:34:08 PM CST  
**To:** "Lowenberger, Brea" <bt1961@mail.usask.ca>

Brea,

I can clarify that you have permission to use the assessment rubric which we have been using in the Negotiation class at the U of S, in your thesis. It has not been published elsewhere.

Michaela

## BIBLIOGRAPHY

### SECONDARY SOURCES: ARTICLES, BOOKS, AND REPORTS

- Abner, Erika & Shelley Kierstead. "Performance Assessment in Legal Education" in Paul F Wimmers & Marcia Mentkowski, eds, *Assessing Competence in Professional Performance across Disciplines and Professions* (Switzerland: Springer International Publishing, 2016).
- Action Committee on Access to Justice in Civil and Family Matters. *Access to Civil and Family Justice: A Roadmap for Change* (Ottawa: October 2013).
- Aldana, Raquel. "Intercultural Legal Sensibility as Transformation", online: (2015) <<http://ssrn.com/abstract=2665420>>.
- Alleva, Patti & Jennifer A Gundlach. "Learning Intentionally and the Metacognitive Task" (2016) 65:4 *Journal of Legal Education* 710.
- American Bar Association. *ABA Standards and Rules of Procedure for Approval of Law Schools 2016-2017* (United States of America: August 2016).
- Anzalone, F. "Education for the Law: Reflective Education for the Law" (2010) *Handbook of Reflective Inquiry: Mapping a Way of Knowing for Professional Reflective Inquiry* 85.
- Arthurs, Harry W. "The Future of Legal Education: Three Visions and a Prediction" (2014) 51:4 *Alta L Rev* 705.
- Australian Learning and Teaching Council. *Learning and Teaching Academic Standards Project: Bachelor of Laws Learning and teaching Academic Standards Statement* (Australia: December 2010), online: <<http://www.cald.asn.au/assets/lists/Resources/KiftetalLTASStandardsStatement2010%20TLOs%20LLB.pdf>>.
- Bain, J D et al. *Reflecting on practice: Student teachers' Perspectives* (Flaxton: Post Pressed, 2002).
- Bain, K. *What the best college teachers do* (Cambridge, MA: Harvard University Press, 2004).
- Banta, Trudy W & Catherine A Palomba. *Assessment essentials: Planning, implementing, and improving assessment in higher education*, 2nd ed (San Francisco: Jossey-Bass, 2015).
- Banta, Trudy W, Elizabeth A Jones, & Karen E Black. *Designing Effective Assessment: Principles and Profiles of Good Practice* (San Francisco: Jossey-Bass, 2009).
- Bartlett, Katharine T. "Feminist Legal Methods" (1990) 103:4 *Harvard L Rev* 829.
- Bhangoo, Karenjot & Venashri Pillay. "Capacities and Skills for Intercultural Conflict Resolution" in Michelle LeBaron & Venashri Pillay, eds, *Conflict Across Cultures: A Unique Experience of Bridging Differences* (Boston, MA: Intercultural Press, 2006).
- Biggs, John & Catherine Tang. *Teaching for Quality Learning at University: 4th Edition* (New York, NY: McGraw Hill, 2011).
- Boud, David, Rosemary Keogh & David Walker, eds. *Reflection: Turning Reflection into Learning* (New York, NY: Routledge Falmer, 1987).
- Bresciani, Marilee J. *Outcomes-Based Academic and Co-Curricular Program Review* (Sterling, VA: Stylus Publishing, LLC, 2006).
- Buhler, Sarah, Sarah Marsden & Gemma Smyth. *Clinical Law: Practice, Theory and Social Justice Advocacy* (Toronto: Emond Montgomery, 2016).
- Buhler, Sarah. "Painful Injustices: Encountering Social Suffering in Clinical Legal Education" (2013) 20 *Clin L Rev* 405.

- Burton, Kelley. "A Criterion-Referenced Assessment Rubric on Reflective Practice Designed for a Clinical Legal Education Context" (2015) 8:1-2 Australasian Law Teachers Association 3.
- Burton, Kelley. "'Think Like a Lawyer': Using a Legal Reasoning Grid and Criterion-Referenced Assessment Rubric on IRAC (Issue, Rule, Application, Conclusion)" (2017) 10:2 Journal of Learning Design.
- Burton, Kelley. "Using a Reflective Court Report To Integrate And Assess Reflective Practice in Law" (2016) 9:2 Journal of Learning Design 56.
- Burton, Kelley & Judith McNamara. "Assessing Reflection Skills in Law Using Criterion-referenced Assessment" (2009) 19 Leg Educ Rev 171.
- Canadian Bar Association Access to Justice Committee. *Reaching Equal Justice: An Invitation to Envision and Act* (Ottawa: November 2013).
- Carstarphen, Nike. "A Map Through Rough Terrain: A Guide for Intercultural Conflict Resolution" in Michelle LeBaron & Venashri Pillay, eds, *Conflict Across Cultures: A Unique Experience of Bridging Differences* (Boston, MA: Intercultural Press, 2006).
- Casey, Timothy. "Reflective Practice in Legal Education: The Stages of Reflection" (2014) 20 Clinical L Rev 317.
- Cockburn, Tina & Mary Ryan. "Teaching and Assessing Reflective Writing in a Large Undergraduate Core Substantive Law Unit" in Mary Elizabeth Ryan, ed, *Teaching Reflective Learning in Higher Education: A Systematic Approach Using Pedagogic Patterns* (Switzerland: Springer International Publishing, 2015).
- Cohen, Cynthia. "Arts and Building Peace: Affirming the Past and Envisioning the Future", *United States Institute of Peace Insights Newsletter* (Summer 2015) 5, online: <[https://www.usip.org/sites/default/files/Insights\\_Summer-2015-Arts-Peacebuilding.pdf](https://www.usip.org/sites/default/files/Insights_Summer-2015-Arts-Peacebuilding.pdf)>.
- Cook, Nancy. "Law As Science: Revisiting Langdell's Paradigm in the 21st Century" (2012) 88 NDL Rev 21.
- Condlin, Robert J. "'Practice Ready Graduates': A Millennialist Fantasy" (2015) 31:1 Touro L Rev 75.
- Curcio, Andrea. "Assessing Differently and Using Empirical Studies to See If It Makes a Difference: Can Law Schools Do It Better?" (2009) 27 Quinnipiac L Rev 899.
- Dodge, Amanda. "Access to Justice Metrics Informed by the Voices of Marginalized Community Members: Themes, Definitions and Recommendations Arising from Community Consultations" (2013) Prepared for the Canadian Bar Association's Access to Justice Committee, online: <[http://www.cba.org/CBA/cle/PDF/JUST13\\_Paper\\_Dodge.pdf](http://www.cba.org/CBA/cle/PDF/JUST13_Paper_Dodge.pdf)>.
- Dubgen, Franziska. "Epistemic Injustice in Practice" (2016) 15 Wagdu: A Journal of Transnational Women's and Gender Studies 1.
- Federation of Law Societies of Canada. "Task Force on the Canadian Common Law Degree: Final Report" (October 2009).
- Field, Rachael M et al. *Lawyering and Positive Professional Identity* (Chatswood: LexisNexis, 2014).
- Finlay, Linda. "Reflecting on 'Reflective practice'" (2008) 52 PBPL 1.
- Gelfand, Michele. "Culture and Negotiation" (White Paper prepared for the Committee on Opportunities in Basic Research in the Behavioral and Social Sciences for the U.S. Military, October 2006).



- Gerkman, Alli & Logan Cornett. *Foundations for Practice: The Whole Lawyer and the Character Quotient* (Denver, CO: Institute for the Advancement of the American Legal System, 2016).
- Gibbons, Jenny. "Oh the Irony! A Reflective Report on the Assessment of Reflective Reports on a LLB Programme" (2015) 49:2 *The Law Teacher* 176.
- Gilligan, Carol. *In a different voice: Psychological theory and women's development* (Cambridge, MA: Harvard University Press, 1982).
- Grimes, Richard & Jenny Gibbons. "Assessing Experiential Learning – us, them and the others" (2016) 23:1 *Intl J Clin L Ed* 107.
- Hargreaves, J. "So How Do You Feel about That? Assessing Reflective Practice" (2004) 24:3 *Nurse Education Today* 196.
- Hobbs, V. "Faking It or Hating It: Can Reflective Practice Be Forced?" (2007) 8:3 *Reflective International and Multidisciplinary Perspectives* 405.
- Honeyman, Christopher, James Coben & Giuseppe De Palo, eds. *Rethinking Negotiation Teaching: Innovations for Context and Culture* (Saint Paul, MN: DRI Press, Hamline University School of Law, 2009).
- Kang, Jerry et al. "Implicit Bias in the Courtroom" (2011) 59 *UCLA L Rev* 1124.
- Keet, M & B Cotter. "Settlement Conferences and Judicial Role: The Scaffolding for Expanded Thinking about Judicial Ethics" (2013) 91 *Can Bar Rev*.
- Kuh, GD. "Making learning meaningful: Engaging students in ways that matter to them" (2016) 145 *New Directions for Teaching and Learning* 49.
- LeBaron, Michelle & Mario Patera. "Reflective Practice in the New Millennium" in Christopher Honeyman, James Coben & Giuseppe De Palo, eds, *Rethinking Negotiation Teaching: Innovations for Context and Culture* (Saint Paul, MN: DRI Press, Hamline University School of Law, 2009) 45.
- LeBaron, Michelle & Venashri Pillay, eds. *Conflict Across Cultures: A Unique Experience of Bridging Differences* (Boston, MA: Intercultural Press, 2006).
- Leering, Michele. "Conceptualizing Reflective Practice for Legal Professionals" (2014) 23 *JL & Soc Pol'y* 83.
- Leering, Michele. "Encouraging Reflective Practice in a Professional School: Developing a Conceptual Model and Sharing Promising Practices to Support Law Student Reflection" (2012) [unpublished, on file with author].
- Leering, Michele. "Enhancing the Capacity for Innovation in Legal Professionals: The Gift and Promise of Reflective Practice and Action Research for Fostering Access to Justice" (2016) *Windsor YB Access Just* [forthcoming, on file with author].
- Leering, Michele M. "Integrated Reflective Practice: A Critical Imperative for Enhancing Legal Education and Professionalism" (2017) 95 *Can B Rev* 47 [forthcoming, on file with author].
- Lowenberger, Brea, Michaela Keet & Janelle Anderson. "Collaborative Policy-Making, Law Students, and Access to Justice: The Rewards of Destabilizing Institutional Patterns" (2017) *Windsor YB Access Just* (forthcoming).
- Macfarlane, Julie. "A Feminist Perspective on Experience-Based Learning and Curriculum Change" (1994) 26:2 *Ottawa L Rev* 357.
- MacFarlane, Julie. "Assessing the 'Reflective Practitioner': Pedagogic Principles and Certification Needs" (1998) 5:1 *Int'l J Legal Prof* 63.

- Macfarlane, Julie. "Look Before You Leap: Knowledge and Learning in Legal Skills Education" (1992) 19:3 JL & Soc'y 293.
- Macfarlane, Julie. "Mediating Ethically: The Limits of Codes of Conduct and the Potential of a Reflective Practice Model" (2002) 40:1 Osgoode Hall LJ 49.
- Maki, Peggy L. *Assessing for Learning: Building a Sustainable Commitment Across the Institution, 2ed*, (Sterling, VA: Stylus Publishing, LLC, 2010).
- McCarthy, Bernice. *Teaching Around the 4MAT Cycle: Designing Instruction for Diverse Learners With Diverse Learning Styles* (Wauconda, IL: About Learning, Inc, 2006).
- McNamara, Judith, Tina Cockburn, & Catherine Campbell. *Good Practice Guide (Bachelor of Laws): Reflective Practice* (San Francisco, CA: Creative Commons, 2013).
- Menkel-Meadow, Carrie. "Toward a Jurisprudence of Law, Peace, Justice, and a Tilt Toward Non-Violent and Empathic Means of Human Problem Solving" (2013) Georgetown Law Faculty Publications and Other Works 1286.
- Mertz, Elizabeth. "Inside the Law School Classroom: Toward a New Legal Realist Pedagogy" (2007) 60 Vand L Rev 483.
- Moon, J A. *Learning journals: A handbook for reflective practice and professional development* (London: Routledge, 2006).
- Moon, Jennifer A. *A Handbook of Reflective and Experiential Learning: Theory and Practice* (New York, NY: Routledge Falmer, 2004) 82.
- Niedwiecki, Anthony. "Teaching for Lifelong Learning: Improving the Metacognitive Skills of Law Students Through More Effective Formative Assessment Techniques" (2012) 40 Capital UL Rev 149.
- Patton, M Q. *Qualitative research & evaluation methods: integrating theory and practice* (Thousand Oaks, CA: SAGE Publications, Inc, 2015).
- Preston, Cheryl B, Penée Wood Stewart, & Louise R Moulding. "Teaching 'Thinking Like a Lawyer': Metacognition and Law Students" (2015) BYUL Rev 1053.
- Ramy, Herbert. "Moving Students From Hearing and Forgetting to Doing and Understanding: A Manual for Assessment in Law School" (2013) 41 Capital Uni L Rev 837.
- Rochette, Annie & W Wesley Pue. "'Back to Basics'?: University Legal Education and 21<sup>st</sup> Century Professionalism" (2001) 20 Windsor YB Access Just 167.
- Rochette, Annie. "Teaching and Learning in Canadian Legal Education: An Empirical Exploration" (Montreal, QC: Doctorate of Civil Law, McGill University, 2010) [unpublished], online: <[http://digitool.library.mcgill.ca/R/?func=dbin-jump-full&object\\_id=103488&local\\_base=GEN01-MCG02](http://digitool.library.mcgill.ca/R/?func=dbin-jump-full&object_id=103488&local_base=GEN01-MCG02)>.
- Rolfe, G, D Freshwater, & Jasper, M. *Critical reflection in nursing and the helping professions: a user's guide* (Basingstoke: Palgrave Macmillan, 2001).
- Ryan, Mary Elizabeth, ed. *Teaching Reflective Learning in Higher Education: A Systematic Approach Using Pedagogic Patterns* (Switzerland: Springer, 2015).
- Ryan, M. "Improving reflective writing in higher education: A social semiotic perspective" (2010) 16:1 Teaching in Higher Education 99.
- Ryan, Mary E & Michael Ryan. "Theorising a model for teaching and assessing reflective learning in higher education" (2013) Higher Education Research and Development.
- Schön, DA. *Educating the Reflective Practitioner* (San Francisco: Jossey-Bass, 1987).
- Schön, DA. *The Reflective Practitioner: How professionals think in action* (New York: Basic Books, 1983).

- Schön, Donald A. *The Reflective Turn: Case Studies in and on Educational Practice* (New York: Teachers College Press, 1991).
- Schön, Donald A. "Educating the Reflective Legal Practitioner" (1996) 2 *Clinical L Rev* 231.
- Schwartz, Michael Hunter, Gerald F Hess, & Sophie M Sparrow. *What the Best Law Teachers Do* (Cambridge: Harvard University Press, 2013).
- Seidman, Ann and Robert B. Seidman. "Instrumentalism 2.0: Legislative Drafting for Democratic Social Change" (2011) 5 *Legisprudence* 95.
- Shapiro, Ilana. "Extending the Framework of Inquiry: Theories of Change in Conflict Interventions" in Berghof Research Center for Constructive Conflict Management, *Berghof Handbook Dialogue No. 5* (Berlin, Germany: Berghof Research Center for Constructive Conflict Management, 2006).
- Shariff Mary J et al. *Academic Innovation Committee on the Robson Hall JD Curriculum: Consultation Paper* (March 2014), online: <[law.robsonhall.ca/images/stories/Academic\\_Innovation\\_Committee\\_Report\\_12\\_March\\_2014.pdf](http://law.robsonhall.ca/images/stories/Academic_Innovation_Committee_Report_12_March_2014.pdf)>.
- Simmons, Martha E. "Innovative Thinking and Clinical Education: The Experience of the Osgoode Mediation Intensive Program" (2014) 37:1 *Man LJ* 365.
- Smyth, Gemma. "Lulling Ourselves Into A False Sense of Competence: Learning Outcomes and Clinical Legal Education in Canada, the United States and Australia" (2012) *Can Legal Educ Ann Rev* 15.
- Sossin, Lorne. "Experience the Future of Legal Education" (2014) 51:4 *Alberta L Rev* 849.
- Stevens, Dannelle D & Antonia Levi. *Introduction to Rubrics: An Assessment Tool to Save Grading Time, Convey Effective Feedback, and Promote Student Learning* (Sterling, VA: Stylus Publishing, LLC, 2005).
- Stuckey, Roy et al. *Best Practices for Legal Education: A Vision and A Road Map* (United States: Clinical Legal Education Association, 2007).
- Sullivan, William M et al. *Educating Lawyers: Preparation for the Profession of Law* (San Francisco, CA: Josey-Bass, 2007).
- Taylor, Sue & Mary Ryan. "Teaching Peer Review Reflective Processes in Accounting" in Mary Elizabeth Ryan, ed, *Teaching Reflective Learning in Higher Education: A Systematic Approach Using Pedagogic Patterns* (Switzerland: Springer, 2015).
- Terry, Kelly S. "Embedding Assessment Principles in Externships" (2014) 20 *Clin L Rev* 467.
- The Truth and Reconciliation Commission of Canada. "Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada" (2015), online: <<http://www.trc.ca/websites/trcinstitution/index.php?p=890>>.
- Ting Toomey, Stella. "Managing Identity Issues in Intercultural Conflict Communication: Developing a Multicultural Identity Attunement Lens" in V Benet-Martinez & Y-Y Hong, eds, *The Oxford Handbook of Multicultural Identity: Basic and Applied Psychological Perspectives* (New York: Oxford University Press, 2014).
- Tsingos-Lucas, Cherie et al. "The Effect of Reflective Activities on Reflective Thinking Ability in an Undergraduate Pharmacy Curriculum" (2016) 80:4 *Am J Pharm Educ* 65.
- University of Saskatchewan, Saskatchewan Institute of Applied Science and Technology, & First Nations University of Canada. *Nursing Education Program of Saskatchewan Student Handbook: 2016-2017* (Saskatoon, SK: University of Saskatchewan, 2016), online: <<http://www.usask.ca/nursing/neps/docs/NEPSHandbook2016-2017.pdf>>.

Winkler Institute for Dispute Resolution. *Justice Innovation and Access to Justice Program Report* (Toronto, 2016).

Zimmerman, Emily. "What Do Law Students Want?: The Missing Piece of the Assessment Puzzle" (2010) 42:1 Rutgers L J 1.

## SECONDARY SOURCES: WEBSITES

*A Learning Charter* (Saskatoon: University of Saskatchewan, 2010), online: University of Saskatchewan <[usask.ca/learning\\_charter](http://usask.ca/learning_charter)>.

Assessing your CPD Plan (2014), online: Nova Scotia Barristers' Society <<http://nsbs.org/assessing-your-cpd-plan>>.

A Teaching Pattern, online: <[https://44530135-a-62cb3a1a-sites.googlegroups.com/site/qutdrawproject/reflection/figure-6.jpg?attachauth=ANoY7cqCmQTLWOTpRcn8h\\_Zik4QftjVi8h8T05RGIt\\_O6HIcVDbkW6zh-\\_Gn8MjiY0Cd-45NkPfmBv40uxuM\\_CLRzSEb2rW8vAPoxdb51P8nnLWyVoFgHkNeS\\_Vaq2WmmGubvW6ptIAYkE9J6QyYF6txLWTawO6pppSSHCEK5zA3o3hi-mKzynK6wKehZLWIYHNtCLAn5cH\\_iT-xNRVhcXNTYFeGRrIYYDadIsB5UPRFKNKsf5IaOIM%3D&attredirects=1](https://44530135-a-62cb3a1a-sites.googlegroups.com/site/qutdrawproject/reflection/figure-6.jpg?attachauth=ANoY7cqCmQTLWOTpRcn8h_Zik4QftjVi8h8T05RGIt_O6HIcVDbkW6zh-_Gn8MjiY0Cd-45NkPfmBv40uxuM_CLRzSEb2rW8vAPoxdb51P8nnLWyVoFgHkNeS_Vaq2WmmGubvW6ptIAYkE9J6QyYF6txLWTawO6pppSSHCEK5zA3o3hi-mKzynK6wKehZLWIYHNtCLAn5cH_iT-xNRVhcXNTYFeGRrIYYDadIsB5UPRFKNKsf5IaOIM%3D&attredirects=1)>.

A Sample Teaching Pattern: Fishbowl Reflection (FBR), online: <[https://44530135-a-62cb3a1a-sites.googlegroups.com/site/qutdrawproject/reflection/figure-5.jpg?attachauth=ANoY7cq8AXUIT3wUgshqexlqXfpfZzGDME\\_dCtP4RH4gDhiKiUbUVHk0tM6soXoCwa03QCsiFHBthZS\\_jQ2\\_e8vIELPWk0e0hkJiOHwAyU-IUEoQCXAoVr99s6rHCmAITQUZ1CmVTNdEzj4JulmFN4s1Avz4mn2fUcm0XB3\\_VW3bv3i9NNyXp0FtwKmPly9VgYsgbtBI4iGYSgk1Ljlo6FDqcPU5pV4NN67uZLRYGZd6t6kk6yV\\_YOk%3D&attredirects=0](https://44530135-a-62cb3a1a-sites.googlegroups.com/site/qutdrawproject/reflection/figure-5.jpg?attachauth=ANoY7cq8AXUIT3wUgshqexlqXfpfZzGDME_dCtP4RH4gDhiKiUbUVHk0tM6soXoCwa03QCsiFHBthZS_jQ2_e8vIELPWk0e0hkJiOHwAyU-IUEoQCXAoVr99s6rHCmAITQUZ1CmVTNdEzj4JulmFN4s1Avz4mn2fUcm0XB3_VW3bv3i9NNyXp0FtwKmPly9VgYsgbtBI4iGYSgk1Ljlo6FDqcPU5pV4NN67uZLRYGZd6t6kk6yV_YOk%3D&attredirects=0)>.

Cliniclaw.ca, online: Windsor Law, University of Windsor <<http://clinicallaw.ca>>.

Curriculum Development and Renewal (2017), online: University of Saskatchewan Gwenna Moss Centre for Teaching and Learning <<https://teaching.usask.ca/curriculum/course-design.php#CourseDesign>>.

Desired Juris Doctor Graduate Attributes (2010), online: University of Saskatchewan College of Law <[law.usask.ca/documents/Graduate%20Attributes.pdf](http://law.usask.ca/documents/Graduate%20Attributes.pdf)>.

Educating the Whole Lawyer (2017), online: Association for Canadian Clinical Legal Education <<http://accle.ca/wp-content/uploads/FINAL-CALT-ACCLE-Eng.pdf>>.

General Information (2010), online: Law Society of Alberta <<http://www.lawsociety.ab.ca/lawyers/cpd/cpd-general-information>>.

Integrated Practice Curriculum, online: Bora Laskin Faculty of Law <<https://www.lakeheadu.ca/academics/departments/law/curriculum/ipc>>.

Pattern Language, online: Developing Reflective Approaches to Writing Project <<http://www.drawproject.net/pattern-language>>.

The Calgary Curriculum, online: University of Calgary Faculty of Law <<http://law.ucalgary.ca/calgarycurriculum>>.